Informal Practices in Illicit Border-Regimes: The Economy of Legal and Fake Travel Documents Sustaining The EU Asylum System

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Abstract

On their route to secure asylum in the EU, asylum seekers rely on various strategies involving both licit and illicit paper practices. Based on ethnographic research with asylum seekers on the move between Turkey, Greece, and Germany, this article takes the realm of legal documents to probe the economy of legality and illegality that sustains the EU asylum system. Looking at how asylum seekers differentiate between their papers, the article demonstrates how efficacy rather than legality is the organizing principle through which papers are evaluated. Rather than being preoccupied with whether a paper is legal or illegal, 'unauthorized' migrants on the move evaluate papers on the scale of strong/not strong or dangerous/safe, asking what is more likely to work or pose less threat, and in what circumstances. The notion that both licit and illicit papers have a fickle efficacy in producing legality problematizes common policy and scholarly conceptions of the counterfeit as an informal space that is either external to the law or a perversion of it. Instead, it highlights how the European border and asylum regime exploits the legal/illegal distinction to criminalize asylum-seeking while obscuring how illegality is systematically embedded within it.

Keywords: *Migration; Informality; Europe; Illegality; Bureaucracy*

Introduction

This article sets out to scrutinize how asylum seekers perceive, differentiate, and manage their documents in their quest for asylum, as well as the kind of work that they do or fail to do for them. In studying how migrants perceive and manage licit and illicit documents, the article traces how - while the former is generally more desirable than the latter - both are perceived as vital components for the production of legality. Asylum seekers, this article shows, perceive identity papers - real and fake - as commodities whose value is unstable and whose efficacy requires a constant refashioning of the document holder's entrepreneurial skills as well as her self-presentation. In some cases, the legal/illegal and licit/illicit binaries are deemed as ultimately immaterial to the efficacy of documents to facilitate movement, temporary safety, or a successful asylum application. Rather than being preoccupied with whether a paper is legal or illegal, 'unauthorized' migrants on the move evaluate papers on the scale of strong/not strong or dangerous/safe, asking what is more likely to work or pose less threat, and in what circumstances.

By studying legal papers from the standpoint of efficacy, rather than what states deem as legal, this paper problematizes popular understandings of the illicit as a product of ignorance or fraud. Contrary to these representations, the paper demonstrates that a somewhat different

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dynamic operates between the legal and the illegal among migrants seeking asylum status in Europe. The migrants interviewed in this research were not only anything but ignorant about EU policies, but rather well versed in the legal nitty-gritty of the various contrasting documentation regimes within the different member states. Their lived experience exposes how illegality is intrinsic to the EU border and asylum regime. It is precisely the understanding that illegality is a domain one must enter in order to achieve legality that propels many to fluctuate flexibly between legal and illegal paper practices.

The paper starts with an analysis of the structural embeddedness of illegality in Europe's asylum regime and its perverse ramification on access to asylum. It will argue that while the EU asylum regime de-facto hollows out the legal-illegal binary, it exploits these discursive distinctions to criminalize asylum-seeking and to obscure the embeddedness of illegality within it. This leads to a discursive trap: if the EU Asylum regime exploits the licit-illicit binary to obscure its manufactured illicitness, social researchers must rethink the analytic validity of these categories. While anthropological scholarship has been drawing attention to how illegality is legally produced, illegality is still often construed as a hermetic exclusion from the domain of the law. This study will contribute to the illegality scholarship by illuminating how, in the context of asylum, legally-produced illegally may at times be elemental to, and a precondition for, the production of legality itself.

The article then moves to examine the fickle efficacy of il/legal documents in the asylum process through two ethnographic case studies. First, it looks at legal papers with a focus on the asylum seeker's original passport. Many refugees see their national passport as a site of dispossession, which continually shifts between being an asset (as evidence in the asylum procedure) to liability (as it can facilitate deportation and jeopardize movement and protection). As a result, migrants develop practices of temporary separation from their documents, as well as networks of paper care and guardianship. Next, the article examines the fake paper economy and how the EU asylum regime systematically incentivizes it. It looks at how migrants see the figure of the smuggler/fake-paper-merchant as a bureaucratic entrepreneur and how they perceive the smuggler's illicit services as a precondition for their proper asylum application. Attending to refugee experiences at the counterfeit document market in Athens, the article then examines how overburdened EU frontline states informally (and illicitly) stimulate asylum seekers to use fake papers to lodge their legal claims in a less burdened state. Subsequently, migrants have to informally learn border-guards' expectations about how to use fake papers *adequately*.

The Systematic Embeddedness of Illegality in Europe's Asylum Regime

The 1951 Refugee Convention allows asylum seekers to breach border laws to seek effective protection. The convention prohibits governments from penalizing illegal entry of refugees "so long as the refugees come forward and explain why the urgency of their circumstances justified the breach of migration control laws" (Hathaway 2008:37). In keeping with international law, The EU has adopted a 'managerial' approach towards asylum migration. This approach is seen as a compromise between two impossibilities: giving access to all those entitled for international protection, on the one hand, and enforcing the EU's external border, on the other (Mann 2016). This paradoxical approach meant that the EU border apparatus was given contradictory objectives of both administering asylum protection as well as

enforcing the border, by way of deportations and 'push-backs'(Gammeltoft-Hansen 2006, Feldman 2012).

This paradox is perhaps most visible in the Medditeranian island 'hotspots,' where since 2015 asylum requests are lodged and processed but to which access is criminalized and dependent upon expensive and dangerous smuggling routes. By turning Greek and Italian islands into Europe's asylum assessment and surveillance centers, the EU further criminalized boat border crossing while at the same time formalizing it as the anticipated asylum-seeking trajectory. As a result, the EU de-facto incorporates the smuggling economy in its migration management apparatus as a precondition for protection. Heijer et al. have argued that the lack of viable legal pathways[2] to asylum and the prohibition of access at the external borders incentivizes refugees to use smugglers and "stimulates a smuggling economy" (2016:13). Indeed, smuggling networks facilitated over 90% of irregular migrants traveling to Europe in 2015 (Europol 2016).

While illegality is produced as a precondition for accessing the asylum system (by entering the EU) it is further embedded within EU territory as a result of the Dublin Regulation[3] which arbitrarily distributes asylum responsibility on frontline states. As inequality in asylum burden-sharing among member states widens, and Dublin reforms are stuck,[4] frontline states illicitly stimulate asylum seekers to move north and lodge their claim in a less burdened member-state. Before 2015, these 'encouragements' were pretty straightforward: frontline state authorities would "organize their own relief by not registering asylum seekers and stimulating their secondary migration (Heijer et al. 2016, p. 5)." In 2015, as migration intensified, the EU had imposed sanctions on misregistration and even threatened to excommunicate Greece from the Schengen free-travel zone.[5] In response, Greece enhanced registration and enforced prohibition of secondary movement. At the same time, it informally pushed asylum seekers to take their claims to another state, by prolonging wait times for interviews and episodically turning a blind eye on migrants' secondary movement.

Illegal, Illicit and informal as Analytic Terms: a Discursive Trap

While illegality and informality are deeply intrinsic to the asylum system, EU policy exploits *illegality* as a discursive device to moralize migrants, criminalize asylum-seeking, and obscure how informality and illegality are structurally embedded in formal asylum policies. This state of affairs creates a discursive trap for social scientists: by retaining illegality as an analytic category, scholars may inadvertently further becloud our understanding about the extent to which illegality is intrinsic to the production of legality, as well as perpetuate the criminalization of refugees.

Contrary to policy characterization of the *illegal* as that which violates pre-existing laws, anthropologists of illegal migration have attended to the various processes that "entice" the illegal migrant "into a social role, and negotiate it in a historically constituted field of political, economic, and social relations" (Feldman 2012:8). Ruben Andersson has made the case that the management of illegal migration produces the very phenomenon it aims to manage,

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[2] Resettlement from a third country – the only existing legal pathway to protection in the EU – facilitated barely 2 percent refugee arrival in 2016 (Savino 2019).

[3] The Dublin regulation, i.e., the European Union law that determines that the member state through which an asylum seeker first enters the EU is responsible for the case, with few exceptions.

[4] See EASO 2018.

[5] Stangos, Angelos. "The Threat of Exclusion." *Ekathimerini,* 04 December. 2015.

through both coercive policing and humanitarian care. In an analysis infused with production-chain metaphors, Andersson argues that EU's "multifarious agencies purportedly working on "managing" illegality in fact produce more of it, like bickering workers on an assembly line' (2014:15). Similarly, Nicholas De Genova conceptualized illegality as a sociopolitical construction, produced through both policy measures and discursive formations "that uphold and propagate the notion of migrant 'illegality' more than mere 'consequences' of a more elementary (prior) violation" (1181:2013).

Drawing on critical illegality studies, this paper situates illegality at the heart of migration management and the cultural texts that sustain it. At the same time, this article contributes to the illegality literature by calling attention to the ways in which illegality--rather than being a space of exclusion from legality, or merely a horizon of deportability--may become a terrain for the negotiation and production of legality. It does so by attending to how asylum seekers use both fake and real papers as a medium through which an asylum claim can be realized.

In pursuit of legal protection, asylum seekers turn to various practices on the grey zone of legality, that might seem *informal* or *illicit*. Van Schendel and Abraham have proposed to distinguish between the *legal* as "what states consider to be legitimate" and the *licit* as "what people involved in transnational networks consider to be legitimate" (2005). This distinction, they convincingly argue, would provincialize the state as the locus of legitimizing authority and would better account for how illicit procedures are frequently entrenched in *legal* state procedures. In the context of transnational asylum-seeking, however, such conceptualization of the *licit* may become a category of anthropological alterity, alluding that migrants don't understand the law due to cultural gaps. The distinction here lies in perception: it posits a tension between 'real' existing state laws (the *legal*) and an alien understanding of what the state considers as legitimate (the *licit*). Such plurality of perceptions between "states" and transnational subjects may therefore seem like the result of failed translation and/or a product of systematic exclusion and lack of access to policy information that, in turn, produces confusion about the domain of the legal. In what follows, the article shows that while migrants express confusion in deciding which illicit practice to pursue, it is not because they misunderstand official policies. On the contrary, it reflects fundamental insights about the contradictory written and unwritten objectives that constitute legality.

Methodology

The research is based on a total of seventeen non-consecutive months of fieldwork with asylum seekers on the move, conducted in three chunks between December 2017 to April 2019 in Chios Island (Greece) as well as in Izmir, Athens, and Berlin. Interviewers were of various nationalities, but the following case studies are of Yemenis. The research came out of a doctoral research project on the biometric regulation of migration in the EU, with a focus on the Eurodac Regulation.[6] The doctoral research involved interviews with EU-agencies officials, lawyers, and NGOs as well as archival research at the European Commission and European Council archives.

While this article foregrounds the *centrality* of paper in asylum and bordering tactics, the Eurodac regulation is premised on the promise to *eliminate* paper in the migration and asylum management through biometrics. Responding to policy anxiety that papers betray their makers

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[6] An EU-wide database containing biometric data of irregular migrants and asylum seekers.

(Brouwer 2002, Vavoula 2017), Eurodac's project sustains a fantasy that documentation of the undocumented will ultimately be *sans papiers* - relegating, and eventually eliminating, the identity paper as a mediator between state, body, and truth (Maguire,Rao, and Zurawski 2018). While in Chios, I realized that despite EU policy's promise that biometrics will eliminate paper in migration management, paper emerged as central to migration strategies.

To understand how documents figure in migrants' narratives and bordering tactics (De Genova 2017), I conducted semi-structured interviews as well as participant observation with asylum seekers in Chios. The realization that documents have a symbolic, affective, material, and embodied purchase in the relationship between states and migrants has produced abundant scholarship in recent years (Gordillo 2006, Jansen 2009, Navaro Yashin 2007, Pegler-Gordon 2015, Piot 2010, Yaron 2009). In studying licit and illicit documents through the fickle value, agency, and loyalty they possess for their holders, this article rests on critical anthropological scholarship that addresses documents as more than a representation of state procedures or a vessel of externally imposed utility (Hull 2012). Rather than foregrounding paper assigned purpose, this research interrogates documents through the lived experiences they share with their holders at different junctures, while paying attention to how biometric identity documents further complicate the interrelations between people and papers.

 The research required participant-observation in a variety of contexts. I established rapport by serving as a "researcher-cum-activist"; I drove asylum seekers back and forth from the camp to town, escorted them to legal and medical appointments, taught English at a refugee center, and liaised with NGOs and lawyers on migrants behalf. Once I identified a group of key interviewees, I followed up with in-depth interviews at different stages of the asylum journey. Interviews were conducted in English and conversational Arabic. Working with a focused sample of interlocutors longitudinally was a strategic decision to better comprehend how relationships between migrants and papers change and evolve over time. Together with my interlocutors, we devised methods on how to overcome the ethical challenge in exposing illicit paper strategies to broader publics. The key challenge was to make sure that research findings would not be used by the border apparatus to jeopardize access to asylum. Therefore, the article takes extra safeguards to keep interlocutors anonymous and omits any information that has not been explicitly reported to asylum or border authorities. In the end, against my expectations, there was very little to omit: as engagement with illicit practices was carried out in pursuit of legality, interlocutors often reported them in their asylum interviews to establish credibility.

From Asset to Liability: The Slippery Efficacy of Passports and Legal Papers

On a windy afternoon, I meet Sameer[7] at a cafe overlooking Chios port. On a clear day like today, Izmir's windmills can be seen on the horizon, adorning the bay from which Sameer arrived to Chios on a smuggler's dingy seven months ago. Chios port is a twenty-minute bus drive from Vial camp, the heart of the hotspot, where Sameer lives. He comes downtown whenever he manages to get a hold on a scarce UN bus ticket. More often, he would walk to town, one and a half hours each direction. In town, he would take Greek and English classes at a refugee center, hang with friends at the boardwalk and meet his lawyers - international

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[7] All names and some identifying details have been changed to protect the privacy of individuals.

volunteers who change on average every two weeks - to see if there has been any news with his case.

I ask Sameer to tell me how he ended up at an EU offshore refugee hotspot. He is a passionate, free-wheeling speaker, and I struggle to keep track of what he says. Born and raised in Sanaa, Yemen, Sameer's story jumps between Sanaa and Aden in Yemen, to Turkey, Egypt, and Sudan. "Hold on," I interject at some point, "so was it there, in Sudan, that you first considered going to Greece?." "No," he muttered, visibly irritated. He wanted to stay in Sudan, where he managed to escape in February 2016, find a job, and start a new life in a place that he deems familiar. "Europe was not on my mind at all," he explains; it was distant and expensive. He wanted to reach safety fast. Raised in a low-income family of working-class merchants, he stands out from some other Yemeni refugees on the island who come from a middle-class background. Abha, with whom Sameer lives in a container at the Vial camp, sits with us. A fellow Sanaa native, he is a civil engineer. While Sameer is keen to talk about the perils and adventures of his flight from Yemen that - unintentionally - ended in Europe, Abha is eager to speak about his pre-refugee life. We scroll through his phone picture folder: here he is in India, trekking with friends after their high-school graduation; next, he is sporting a bathing suit at a luxurious resort in Malaysia; Next, he is in a student dormitory in a university in Tanzania (he studied engineering), where - far from his family's sight- he let his hair grow long.

While Sameer and Abha's stories diverge according to their different class background, they both lament the dawn of an era where Yemenis were part of a lost Muslim cosmopolitanism. In both accounts, the Yemeni passport represents their transition from being mobile cosmopolites to beggars of international protection. "Before the war, the Yemeni passport was strong," Sameer says. "You could go to forty-seven countries without a visa," he continues, proudly. "Now just for one country, Sudan," they both laugh."

Sameer and Abha's accounts highlight a rarely discussed outcome of the Yemen war,[8] which echoed in narratives of refugees from Syria and Iraq: in a matter of a few years, they were cut off from a cosmopolitan sphere shared by other sub-global nations. Their homeland became an entrapment (Jansen 2009). While EU states market their passports as an investment for mobile entrepreneurs,[9] Sameer and Abha talk about their passports as a devalued stock: not an abstract symbol of one's nationality, but a concrete site of their people's dispossession. With the war, their passport lost its ability to secure movement and could now give power to foreign authorities to facilitate deportation and arrests. At the same time, however, their passport emerged as administrative evidence of dispossession within the asylum procedure.

Sameer kept his Yemeni passport, but not in any physical way. He stores a copy of his passport on a flash drive. Like many other refugees in the hotspot, the flash drive is the only object from his home country that he has with him today. The original Yemeni passport is kept with a friend in Athens, Sameer's desired next destination, where he is currently prohibited from going while his asylum case is being assessed at the Chios hotspot. He sent his passport to

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[8] As of April 2020, The Yemen Civil War is an ongoing conflict between the Abdrabbuh Mansur Hadii-led Government (backed by a Saudi led coalition with support from the United States) and the Houthi rebels (backed by an Iranian led alliance). Areas of the country are held by different forces, with the capital Sana'a under Houthi control, and Aden under government control. The war in one of the poorest nations in the world resulted in what the UNHCR called a 'humanitarian catastrophe.' It has so far displaced more than two million people, most of whom are still in Yemen. For more on the Yemen war see Hill (2017) and Lackner (2019).

[9] See Abrahamian 2016.

Athens via DSL from Turkey before crossing to Greece. "My passport arrived in Europe before me," he laughs.

On their journey to Europe, migrants and papers often have to part ways. For the Yemeni passport, Sameer explains, the human holder is now a liability, a nuisance; without him, it can quickly travel to the next destination, transcending borders and checkpoints. At every turn, migrants like Sameer have to evaluate not only the physical journey but also the trails for their papers. The same paper can, at one juncture, save its holder from deportation or enable registration at a camp, and at another moment, pose a substantial risk. That fickle quality of papers to facilitate both protection and deportation is symptomatic to how the asylum apparatus is intertwined with the deportation regime.

Sometimes a paper's change of value takes a long time, like Sameer's hope that his passport will regain the value it has lost in the future. At other times, it can change overnight - as on the night of March 19th 2016, when the EU-Turkey deal became legally binding and refugees in Chios could no longer travel to the mainland with their documents. This fickle efficacy of papers means that migrants like Sameer have to be conscious of their papers, particularly in those liminal moments and spaces when they might change from an asset to a liability.

While Sameer decided to send his passport to his friend in Athens before crossing from Turkey to Chios, other migrants reported destroying their papers on the boat once they suspect they have crossed into the EU's territorial waters. Unlike Syrians, who enjoyed Turkish state protection for a few years, refugees from Yemen and other nationalities face risks of deportation in Turkey. Passing through Turkey, asylum seekers from Yemen will often try to pass as Syrians, sometimes acquiring fake Syrian registration papers. When the Turkish Coast Guard intercepts a boat, Syrians would often be released while others would be detained and questioned. So a Yemeni refugee might attempt to pass as Syrian by adjusting her accent or presenting a fake *kimlik* (Turkish ID). In EU water, however, the situation flips: those identified as Syrians are considered inadmissible under the EU-Turkey deal and may try to pass as other Arab nationals to avoid deportation to Turkey. Fake and original kimliks alike may at that moment be used by the deportation authorities, and thus better be discarded.

At other times, as Sameer's story shows, migrants have to separate from their papers rather than discard them altogether. This need for paper guardianship fosters new networks of care and solidarity among refugees, whereby more settled refugees look after their unsteeled friends' papers, sometimes in violation of the law. Such forms of paper guardianship have quickly been commercialized, with smugglers and private agencies offering various services of document storage and courier shipping. According to Sameer, having the passport in either Turkey or Chios would make it easier for state authorities to deport him, thus jeopardizing his chances to enroll in the legal asylum system in Europe. Sameer did not want his passport to be with him in Chios as he feared that Frontex or the Greek authorities would confiscate the document or use it in push-back deportation to Turkey. He therefore kept it with a friend in Athens so he could use it in the future to corroborate his asylum application.

While Yemeni asylum applications had an 89% recognition rate in EU+ countries in 2018, the highest among all nationalities (EASO 2018), they practically need to be present in an EU state to apply. They have to endure the hazardous journey to Europe, but the threat of deportation does not stop once a refugee in on European soil: frontline states occasionally

"push-back"[10] migrants to a neighboring country to prevent access to the block's asylum system.

When Sameer says that the value of the Yemeni passport has dropped, he means that his own ability to make the passport *work* for him has been reduced. At the same time, it amplified the agency of the state - not the one that issued it - to execute deportation. The devaluation of the Yemeni passport, that is - its decreasing capacity for it to *work* for its holders - means more than an end of a cosmopolitan sphere where a certain subject can dwell. It has a bearing on one's chance to seek asylum outside Yemen *legally*. The devaluation of the passport is described as a gradual process, a race against time: as the days go by, and more asylum seekers leave the country, neighboring countries put more restrictions on migrant travel, and the journey becomes increasingly more costly and dangerous. Yet as the Yemeni passport becomes treacherous in securing safe movement, it gains a new value in the evidence economy of internal protection.

"I am a European citizen I can go wherever I want!:" The Work of Fake papers in Border-Free Europe

Contrary to the image of the smuggler as a clandestine figure operating underground, Athens smugglers in the fake paper business rarely make attempts at concealment. Paper smugglers provide various services to refugees often grouped in packages. A fake document package in Athens may also include accommodation and flight tickets and different types of unequally priced documents, including passports, EU IDs, resident permits, refugee certificates, and Greek "khartias" (papers). Prices vary according to various factors, including the type of paper, the state it represents, its quality, its origin—fake or real (stolen)—and in the case of the latter, the time that has passed since the document was stolen.

At a Cafe in Victoria Square, Amjad, a twenty-four year old electrician from Southern Yemen, receives fifteen new Whatsapp messages. They are from his smuggler. This has been a weekly routine: the smuggler sends him pictures of newly acquired papers, and Amjad skims through them to see if one of the faces might somehow resemble his own. By now, he had started to lose hope. He tried leaving Greece nearly twenty times, using a variety of different documents. All of his refugee friends from Athens are long gone - they have managed to travel to the Netherlands, Sweden, Denmark, and Germany. There, they had to send the purchased papers back to the smuggler in Athens, so that he could resell them. It is part of the deal. They all used the same fake paper merchant, but while the counterfeit papers *worked* for them, they kept failing to work for Amjad.

Amjad has been displaced for more than a year. After the Yemen War broke, he managed to acquire a temporary permit to work in Jeddah, Saudi Arabia. He was ready to settle in the city's large Yemeni workers community, but in 2017 the Saudi government cut permits for Yemenis and deported thousands back to the war-ravaged country. Luckily, he got a visa to Turkey through an illicit "middle-man" at the embassy for 5000 Saudi Riyal (1330 US Dollar). From Turkey, he came by boat to Chios, where--at the refugee camp--he bought a stolen Greek asylum document so he could leave the hotspot to Athens. Here, he says, his 'luck' with paper ran out. With twenty attempts, albeit failed, Amjad has expert knowledge of how documents fail or work. He tried seventeen times at the Athens airport, once at Thessaloniki,

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once at Mykonos and later at Kos, where a biometric scan brought a match on the Eurodac database, leading to his deportation back to Chios hotspot, where, according to EU regulations, he must stay while his case is being re-assessed.

Why would an asylum seeker from Yemen, a country with a high asylum acceptance rate in Greece, spend his money on illicit documents and risk imprisonment? "The Greek state expects us to do this," he says.

> "Greece has been very accommodating to us, but it cannot host us all by itself. Because of Dublin, all of us are Greece's responsibility. Since they can't force other states to help them, they roll it over us. They make us wait for months and sometimes over a year for an interview, while we can barely sustain ourselves. They basically signal to us to leave the country illegally to other parts of Europe."

If the Greek state wants him to leave so badly, I challenge Amjad, how come it keeps turning him away at the airports. "I don't have luck," he says. "But still, unlike Italy, they don't arrest us."[11] When Greek border guards realize that his document is fake or stolen, he says, they look at him as if they are disappointed that he failed to fake it right. "Sometimes they even say to me 'come with better work next time', he says, giggling. The notion that Greek border guards informally signal refugees to leave while faking their papers "right" came up in many interviews. It highlights a further structural perversity in the European Asylum system: as member-states fail to find ways to distribute refugees equally, refugees are informally pushed to level out their own distribution through illegal 'secondary movement.' It puts asylum seekers like Amjad in an impossible dilemma: if he stays, he might have to wait for over a year for his first interview, while struggling to make ends meet. If he leaves, he might get a chance to get asylum in a more prosperous state, but he risks being criminally charged for using fake papers, and being deported back to Greece where his fingerprints are registered.

Amjad speculates that his friends had better luck with fake papers "because they looked more European to the officers." For his fake papers to work, he would have to respond to officers' racialized expectations of Europeanness. After failing a few times with Italian IDs, the smuggler suggested that a Spanish passport would better match his skin complexion. But it failed. Finally, the smuggler found a seemingly perfect match: A French passport of a Moroccan citizen, Ali Ben Mehdi. "Real, not fake!" Amjad stresses. He traveled to Kos, where he assumed security would be looser than Athens. The passport officer asked him where he was from. "From France," he replied. "Then why are you traveling to the Netherlands," she asked, to which he responded assertively: "I am a European citizen, I can go wherever I want!". For a split second, it seemed to have worked. But another officer came and approached him in French, a language he does not speak. The officer took his fingerprints, and located his file on Eurodac. Amjad was deported to Chios and reapplied for asylum.

The airport encounter elucidates how buying real stolen papers may serve more purposes beyond legality. When Amjad spends all his family life savings on "real papers," he is not naive to think that such an acquisition can substitute for 'real' legal protection. Obtaining these documents allows him, instead, to exercise - even for brief episodes - how it feels like to move and dwell "wherever I want, like a European."

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[11] The Greek authorities arrested 5,663 individuals using fake IDs at airports in 2018. See Associated Press. "Greece Arrests 5,633 at Airports with Fake ID," November 11, 2018.

Eight months later, Amjad managed to travel to another state on a 'real' stolen passport. He had to send the passport back to the smuggler, who probably sold it to another client. A month later, when his real papers arrived at his destination, he used them to apply for asylum. At present, he awaits the result of his asylum appeal.

Conclusion: Displacing the Formal/Informal paradigm

Scholars studying the paper trade among undocumented migrants have argued that many regard status to inhere in papers rather than persons (Coutin 2000). Others have argued that the fetishization and commodification of identity papers are premised on the exclusion of migrants from the mainstream economy, the same global process which had their national papers devalued in the first place (Horton 2015, Levi 1998). Most analyses operate through notions of twisted doubles: the state versus its shadow, the original and the mutant, the fake and the real, the mainstream and the underground, the north and the south, etc.

This article has demonstrated that by attending to how asylum seekers themselves distinguish between different types of papers one can see that *efficacy,* rather than *legality* or *formality*, is the organizing principle through which papers are differentiated. As the ethnographic case studies indicate, efficacy is not inherent nor guaranteed in either formal or informal documents. This observation is crucial to better understand how asylum seekers perceive informality and informal agents, or why informality is largely marginal as a parameter of difference and moral judgment. But more importantly, it underscores how for many asylum seekers, an *effective* paper is a paper that provides mobility and ultimately access to an asylum system whereby one can claim for enduring protection under international law. In the cases surveyed above, fake papers were not utilized to create a false identity nor to doctor a more compelling asylum application. They were used, instead, in strategies to ensure that an asylum case could be made in the first place.

If the efficacy of both formal and informal papers means producing legality, while at the same time *illegally* avoiding the equally 'legal' procedures of deportation, detention, access prevention, and push-backs, the formal/informal collapses as an analytic paradigm and has to be displaced. Such a paradigm is bound to fail to address the intricate ways in which the European asylum system is licit and illicit at the same time and how it exploits legal binaries to criminalize asylum-seeking, and portray them as agents or victims of illegality. The reproduction of illegality stretches beyond the space of Europe's external borders. As Amjad's interaction with Greek border officers inside Schengen 'border-free-zone' demonstrates, member states may, at times, tolerate and even encourage illicit secondary movement, as long as such illicitness is adequately performed. In this context, informality emerges as a demonstration of familiarity and intimate understanding of how the law is implemented and enforced. The notion that informality pertains to 'activities that are deliberately concealed from the state' (see the introduction to this volume by Fradejas-García et al) can be retained with a slight but crucial revision. Here, informal activities were deliberately concealed *for* the state rather than *from* it. Amjad and Sameer render informality as something closer to the colloquial definition of an informal language, characterized by a casual and familiar understanding among its speakers. In this case, it is migrants' intimate familiarity with the contradictory ways in which illicitness is reworded and criminalized within the EU border and asylum regimes.

References

Abraham, I. & van Schendel, W. (2005). Illıcit Flows and Criminal Things: States, borders, and the other Side of Globalization. Bloomington, USA: Indiana University Press.

Abrahamian, A. A. (2016). The Cosmopolites The Coming of the Global Citizen. New York: Columbia Global Reports.

Andersson, R. (2014). Illegality, Inc. 1st ed. University of California Press.

Brouwer, E. (2002). "Eurodac: Its Limitations and Temptations". European Journal of Migration and Law. 4 (2): 231-247.

Coutin, S. B. (2000). Legalizing Moves: Salvadoran Immigrants' Struggle for US Residency. Ann Arbor: University of Michigan Press.

De Genova, N. (2013). Spectacles of migrant 'illegality': the scene of exclusion, the obscene of inclusion. Ethnic and racial studies, 36(7), 1180-1198.

--------- ed. (2017). The Borders of "Europe": Autonomy of Migration, Tactics of Bordering. Durham, NC: Duke University Press.

Europol-Interpol. (2016). Migrant Smuggling Networks: Joint Europol-Interpol Report. Executive Summary. Brussels: Europol-Interpol. Available from https://www.europol.europa.eu.

EASO .(2018). Annual Report on the Situation of Asylum in the European Union 2018. Available from: https://www.easo.europa.eu/easo-annual-report-2018

Feldman, G. (2012). The migration apparatus security, labor, and policymaking in the European Union. Stanford, California: Stanford University Press.

Gammeltoft-Hansen, T. (2011). Access to Asylum: International Refugee Law and the Globalisation of Migration Control (Vol. 77). Cambridge University Press.

Gordillo, G. (2006). "The crucible of citizenship: ID-paper fetishism in the Argentinean Chaco". American Ethnologist. 33 (2): 162-176.

Hathaway, J. C. (2008). "The Human Rights Quagmire of "Human Trafficking". Virginia Journal of International Law. 49 (1): 1-59.

Heijer, M. den, Rijpma J., and Spijkerboer T. (2016). "Coercion, Prohibition, and Great Expectations: The Continuing Failure of the Common European Asylum System." Common Market Law Review, 53(3), 607-642.

Hill, G. (2017). Yemen Endures Civil War, Saudi Adventurism and the Future of Arabia. Oxford: Oxford University Press.

Horton, S. B. (2015). "Identity loan: the moral economy of migrant document exchange in California's Central Valley". American Ethnologist. 42 (1): 55-67.

Hull, M. S. (2012). "Documents and bureaucracy". Annual Review of Anthropology. 41: 251-267.

Jansen, S. (2009). "After the Red Passport: Towards an Anthropology of the Everyday Geopolitics of entrapment in the EU's "Immediate Outside." The Journal of the Royal Anthropological Institute. 15(4), pp.815-832.

Lackner, H. (2019). Yemen in Crisis: the Road to War. London: Verso.

Levi, M. (1998). "Organizing Plastic Fraud: Enterprise Criminals and the Side-Stepping of Fraud Prevention." Howard Journal 37(4):423–38.

Mann, I. (2017). Humanity at Sea: Maritime Migration and the Foundations of International Law. New York, NY: Cambridge University Press.

Maguire, M., Rao, U., & Zurawski, N. (Eds.) (2018). Bodies as Evidence: Security, Knowledge, and Power. Duke University Press.

Navaro-Yashin, Y. (2007). "Make-Believe Papers, Legal Forms and the Counterfeit : Affective Interactions Between Documents and People in Britain and Cyprus. Anthropological Theory, 7(1).

Pegler-Gordon, A. (2009). In Sight of America : Photography and the Development of U.S. Immigration Policy. Berkeley: University of California Press.

Piot, C. (2010). Nostalgia for the future: West Africa after the Cold War. Chicago : University of Chicago Press.

Savino, M. (2019). "Refashioning Resettlement: from Border Externalization to Legal Pathways for Asylum". EU External Migration Policies in an Era of Global Mobilities: Intersecting Policy Universes. 81-104.

United Nations High Commissioner for Refugees. (2018). Desperate Journeys: Refugees and migrants arriving in Europe and at Europe's borders, January-August 2018, available at: https://bit.ly/2O1NSj8

United Nations High Commissioner for Refugees. (2020). Turkey: Key Facts and Figures. UNHCR, Geneva. Published at https://data2.unhcr.org/en/documents/download/74423.

Vavoula, N. (2017). "Immigration and Privacy in the Law of the EU: The Case of Databases." PhD diss., Queen Mary University of London.

Yaron, H. (2009). "Your Paper or Your Life: The Significance of Documents in the Life Experiences of African Refugees in Israel". New Proposals: Journal of Marxism and Interdisciplinary Inquiry, 3(1), 7–14.