

Pathways to irregularization: trajectories from legal to illegal status for immigrants in France

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Abstract

In the context of increasingly restrictive and suspicious migration policies, this communication examines the pathways through which migrants transition from legal to illegal status due to the loss and/or withdrawal of their residence permit. Adopting a longitudinal and heterogeneous approach to irregular status, I explore the diversity of these irregularization pathways and the policy, family and individual factors that shape them. Using French administrative data, I conduct descriptive statistical analysis on 50,000 migrants who received a legal residence document in France between 2000 and 2021. I examine different forms of administrative precariousness, such as having a short-term document, being without a valid document, or receiving an expulsion order. For a subsample of migrants who have been irregularized for at least one month, I conduct a sequence analysis over the first six years in France. I show that, although irregularization is a common experience, even among long-term regular migrants, certain forms of administrative precariousness can be cumulative: the longer migrants remain in a state of “liminal legality”, the greater the likelihood of their becoming irregularized. I also point out that inequalities in legal migration opportunities (i.e. entering legally or illegally) have repercussions even after a first legal document has been obtained. Finally, I examine inequalities in irregularization trajectories according to family configuration, gender, and origin.

Introduction

While 21% of immigrants living in France in 2019 reported having previously been undocumented, only 9% entered the country without a visa (Beauchemin, Descamps, and Dietrich-Ragon 2023). A significant proportion of these individuals subsequently became undocumented. Overstaying a visa is a frequent pathway to irregular status (Vickstrom 2014), but some migrants also become undocumented after being granted a residence permit. Irregularization, whether through the withdrawal, refusal or failure to renew a residence permit, is an understudied aspect of the legal and political construction of the right of residence. This communication examines irregularization in the context of contemporary migration policies, which are becoming increasingly restrictive and suspicious.

Theoretical focus

I draw on three theoretical approaches: 1) research on state control of migrant populations, which studied the political production of irregularity and administrative precariousness; 2) research on legal trajectories, which emphasized the diversity of administrative precariousness; and 3) research on undocumented migrants, which examined the factors irregularity.

The political production of administrative precariousness

Since the 2000s, there has been an **increase in the precariousness of immigrants' life paths in France** (Math and Spire 2014). Access to unlimited residence has become increasingly difficult and delayed. Consequently, immigrants are more likely to have temporary or short-term residence permits, which are not guaranteed to be renewed. This makes them more vulnerable to irregularity. At the same time, measures to expel foreigners have also increased. The number of expulsion orders more than doubled in five years, rising from 49,000 in 2002 to 112,000 in 2007 (Le Courant 2018). Some studies have focused on the legal and political production of irregularity (De Genova 2002; Düvell 2011). The “threat” of irregularization and expulsion (Le Courant 2018) leads to a form of relegation within national borders (Dowling and Inda 2013) by exposing foreigners to the **risk of double exclusion: from the right to reside in the territory and from social rights** (Sassen 2014). This issue is related to the impact of irregularity on immigrants' access to resources and their social trajectory. There are numerous studies on the effects of irregularity, including its impact on labor market integration and wages (Donato and Sisk 2012; Hall and Greenman 2015; Hall, Greenman, and Farkas 2010), asset ownership (McConnell 2015), access to healthcare and social protection (Hagan et al. 2003; Willen 2012), health (Cheong and Massey 2019), and residential trajectories (Hall and Greenman 2015). It is important to consider not only irregularity, but also irregularization trajectories, in order to examine these effects dynamically, as well as potential disruptions to the social trajectories of already-settled immigrants.

Considering expulsion and the threat of expulsion as “two sides of the same coin” (Le Courant 2018) certainly makes it possible to view migration policies as both sovereignty and population control policies, as they keep certain segments of the population at bay. **However, this conception standardizes the experience of irregularization, homogenizing its effects and factors.** Social profiles are likely to differ greatly between someone who loses their right of residence for a month (thereby risking deportation) and someone who is subject to a

deportation order for several years. Similarly, these administrative trajectories will undoubtedly have different effects.

The diversity of forms of administrative precariousness

Other research has emphasized that **the legal status of immigrants is not simply a matter of being either “regular” or “irregular”** (Kraler and Ahrens 2023; Schoumaker et al. 2022). The concepts of “precarious regularity” (Goldring and Landolt 2022), “liminal legality” (Menjívar 2006) and “semi-legality” (Kubal 2013) refer to intermediate or uncertain statuses or very short-term residence permits. Such situations have also been termed ‘enforced temporariness’, highlighting the potential conflict between institutional and personal temporalities (e.g. family or professional) (Boersma 2019; Merla and Smit 2023). In line with the theory of segmented assimilation (Portes and Zhou 1993), these categories of liminal regularity create a stratified system of belonging (Menjívar 2006). Not all immigrants have access to permanent status and the different categories of residence rights create varying degrees of belonging to the host society. A consequence of this is that certain groups are permanently marginalized.

To understand the various forms of administrative precariousness, some studies have emphasized **the importance of examining the legal trajectories of immigrants over time** (Schoumaker et al. 2022). In particular, the precarious legal status trajectory (PLST) has been described as resulting from various factors: migration policies and their colonial legacies, immigrants’ relationships with migration institutions, and biographical trajectories (Goldring and Landolt 2022). A longitudinal approach also helps to identify the forms of continuity between different types of administrative precariousness. For instance, situations of liminal legality may result in the withdrawal or expiry of a residence permit. Studies on entry into irregularity (Kraler and Ahrens 2023; Vickstrom 2014) have shown that there are various ways of becoming irregular, such as entering without a visa, overstaying after a visa has expired, becoming irregular after a permit has expired, or being born to irregular parents. This present communication will focus on **the process of irregularization, which is defined as the loss or withdrawal of the right to reside in a country for immigrants who had obtained a regular status.**

Risk factors for irregularity

The factors contributing to irregular status have been widely described, including lack of legal migration opportunities (Düvell 2011), complex procedures and formalities (Geoffrion and Cretton 2021; Tuckett 2015), and limited financial resources in the country of origin (Donato and Perez 2017; Vickstrom 2014). At the same time, highly skilled migrants are also affected by precarious regularity trajectories (Jasso et al. 2010; Merla and Smit 2023). Furthermore, the experience of undocumented migration is linked to gendered migration patterns: women, who are more likely to migrate to join a spouse, are less affected (Vickstrom and González-Ferrer 2016). Having family in the destination country can facilitate administrative stabilization (Schoumaker et al. 2022).

However, **few studies have examined the similarities or differences between the risk factors associated with irregular migration and those associated with losing or having one’s residence permit withdrawn.** For example, the role of gender in irregularization is

more uncertain. Women who are administratively dependent on their spouses may be more likely to have their residence permits not renewed if they break up their union. Some research has also pointed out a link between origin, gender, and precarious legal status trajectories (Goldring and Landolt 2022). This is due to the colonial legacy and the prevalence of stereotypes associated with different subgroups. In the aforementioned study, for example, Caribbean men were found to be more likely to be deported, while Caribbean women were more likely to be admitted on an exceptional basis through family ties. Meanwhile, Latin American men and women were found to be more likely to apply for asylum, as their region of origin was deemed to confer humanitarian merit.

In line with these three approaches, this paper has two objectives. The first is to **describe trajectories of irregularization and their relationship to periods of precarious regularity or administrative stability**. The second is to identify the **social characteristics of individuals affected by irregularization**. This involves understanding the political construction of irregularity by considering various “pathways into irregular status”. I document various types of “befallen irregularity”: not having any documents for periods ranging from a few months to longer, as well as enforced irregularity, such as expulsion orders. Conversely, it involves examining these trajectories as the result of various political, family and personal factors. The influence of migration opportunities (regular or irregular entry), country of origin, gender, and family ties in France (spouse and children) will be examined. Drawing on previous literature, I formed four hypotheses:

H1: Cumulative forms of administrative precariousness. Irregularized migrants also experience longer periods of liminal legality (i.e., short-term documents) when they are legal.

H2: Legal migration opportunities. Migrants who enter the country illegally are also more likely to fall back to irregularity after obtaining a legal document.

H3: Family ties. Migrants who have family ties (spouse and children) in France are less likely to be irregularized.

H4: Impact of gender and origin on irregularization pathways. Men (H4.1) and non-European migrants (H4.2) are more likely to experience irregularization.

Data

I use the AGDREF file, which is used for the management of foreigners and asylum seekers in France. This contains **administrative data on residence permits issued in France**. The file provides a comprehensive record of all documents issued in France since 2000. For each foreign national who has ever held a residence document, whether a temporary or unlimited permit, a receipt for a permit application or a long-stay visa equivalent to a residence permit, I have a record of all subsequent documents issued by the administration, including start and end dates of validity. Furthermore, the data provides information on not only residence permits, but also all administrative measures and procedures concerning foreign nationals, such as naturalization, obligation to leave the territory and withdrawal of permits. This allows us to reconstruct individuals’ administrative trajectories in detail.

Methods

For the sake of computational power, I use a subsample of 50,000 non-UE migrants arrived after 18, and who obtained a first document in France after January 2000, and before January 2023.

The legal status is recorded for each month of the observed period, with eight distinct categories: **short document** (documents generally valid for a few months, such as receipts or provisional authorizations); **temporary permit** (permit usually valid for between one and five years, with no guarantee of renewal); **unlimited permit** (permit valid for ten years, with automatic renewal); **French citizenship**; **EU citizen, no document**; **expulsion order**; and **disappeared/emigrated**.

If the migrant's country of origin joined the EU during the observation period, they are considered an "EU citizen" from the official date of entry (For example, this applies to Romanian and Bulgarian migrants from the 1st of January).

If there is a gap of at least one month between two documents, this period is considered a "no document" period. If a person receives an expulsion order, this period is considered as such until the order expires or the observation period ends, if no expiry date is provided and no other documents are issued. Finally, if the last recorded document expires before January 2023 and there is no further information on other documents obtained, it is assumed that the person has "disappeared/emigrated". **Measuring irregular migration faces many challenges, particularly due to the fluidity of legal status and the existence of "grey zones"** (Kraler and Ahrens 2023). In the present study, grey zones exist between the "no document", "expulsion order" and "disappeared/emigrated" categories. Indeed, when someone receives an expulsion order, the data does not specify whether they left the country or not. If someone "disappears" from the data, it is unclear whether they have "no document" (i.e. if they are in a long period of irregularity) or whether they have left the country.

In order to locate and quantify the experience of irregularity, I first present univariate and bivariate statistics describing the **proportion of migrants who have experienced irregularization**. I also describe how irregularization is distributed according to migrants' social and migratory characteristics: sex; origin; family ties (marital status and number of children); type of permit (for the first document issued; period of arrival; conditions of arrival (whether they were regular or not); and age at entry.

I then propose a **typology of irregularization pathways by conducting a sequence analysis of the first 72 months after the first document was obtained in France**, based on the study of Schoumaker et al. (2022). This typology is obtained through optimal matching, which calculates the distance between each pair of sequences based on the number of deletions, insertions, and substitutions required to transition between them. Insertion/deletion and substitution costs are fixed at the transition rate between legal statuses.

For this analysis, I extracted a subsample of migrants who have been in France for at least six years, i.e., who arrived between January 2000 and January 2017, and who experienced at least one month without any document, with an expulsion order, or both. I excluded those who were declared dead by the administration during this period and those whose country of origin joined the EU during this period. The final subsample has 9,453 immigrants. Unlike the study by Schoumaker et al., which examined the legal trajectories of all immigrants in Belgium, **the**

advantage of focusing on individuals who have experienced a period without documentation is that it enables a more nuanced exploration of irregularity in all its forms. One limitation here is that AGDREF do not record short-term visas (such as touristic visas), which is a frequent pathway into irregular status (Vickstrom 2014). The AGDREF file only includes documents obtained through legal residence procedures, such as receipts for a residence permit application, asylum seeker certificates and long-stay visas that are valid as residence permits. Consequently, this study focuses on immigrants who have applied for and obtained a residence permit, or at least a temporary document, and who have subsequently experienced the temporary or permanent loss of this right of residence.

Preliminary findings

General descriptive statistics

Table 1. Experience of irregularization and liminal legality

	No document and expulsion order	Expulsion order	No document	Never undocumented
%	7,2 %	5,8 %	20,7 %	66,3 %
Average time in liminal legality (i.e., short-term document, valid less than 1 year) since arrival	25 months	14 months	18 months	9 months
Average time between entry and first document	10 months	12 months	11 months	9 months

Sample: Immigrants who obtained a first document in France between January 2012 and January 2023 (N = 50,000)

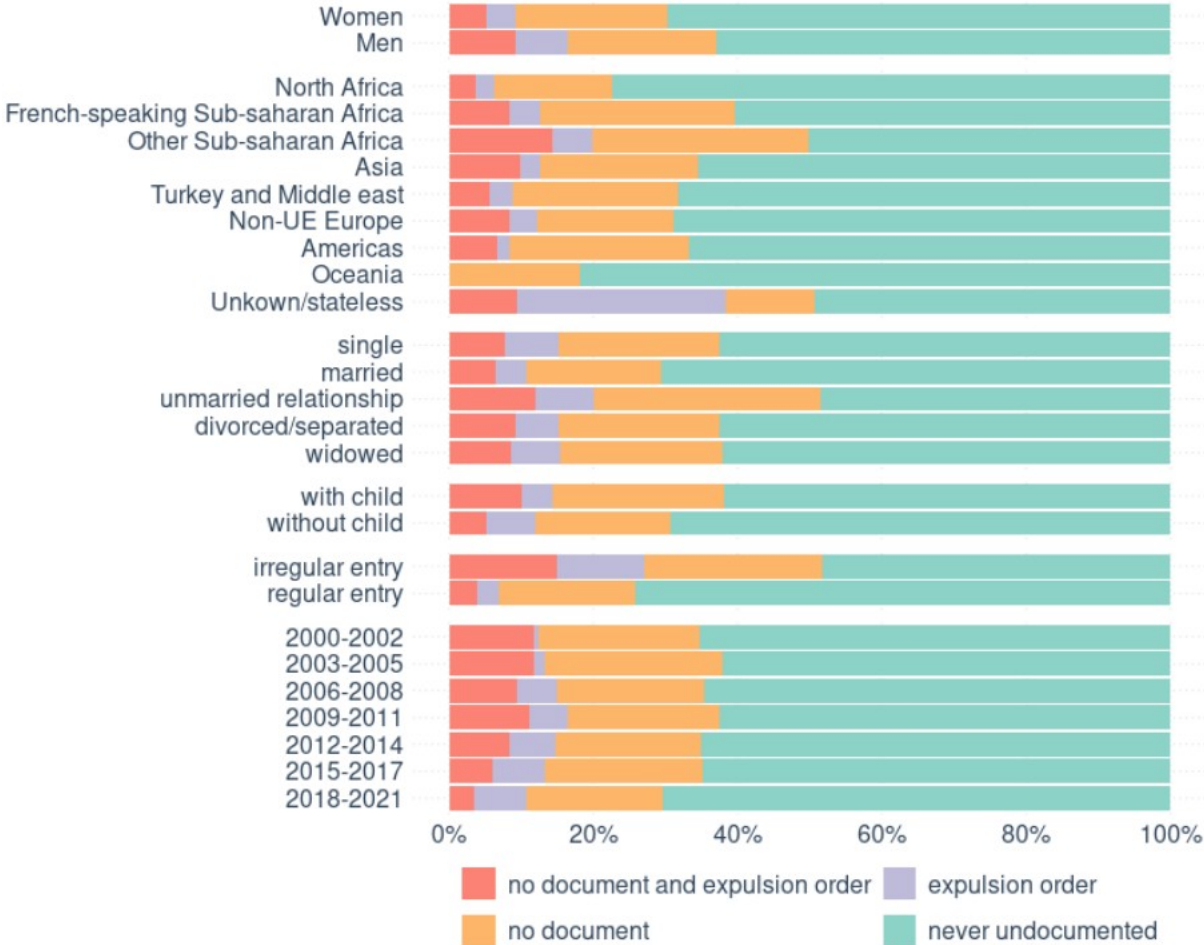
In total, one third of migrants experienced irregularization for at least one month. 20.7% of migrants experienced a period without any documents, 5.8% were subject to an expulsion order, and 7.2% experienced both. On average, migrants who have been irregularized spend more time in a precarious legal status (i.e., holding a document valid for less than one year), suggesting a correlation between precarious legal status trajectories and irregularization (**H1**).

Access to migration opportunities upon entry has long-term effects on immigrants’ experiences once they arrive (**H2**). Those who entered France irregularly experience much higher rates of irregularization than those who entered legally: over half of them become irregular at least once during their stay, even after obtaining a valid residence permit.

Compared to married immigrants, those who are single, separated, widowed or unmarried have a higher rate of irregularization (**H3**). In particular, irregularization rate is higher among immigrants in unmarried couples: 31% experienced a period without any documents, 8% received an expulsion order, and 12% experienced both. These findings suggest that these differences are not solely due to the existence of family relationships in France, but also to the nature of these relationships and how they are legally recognized. However, this pattern does not seem to apply to filiation; migrants with children are more likely to become irregularized than those without.

Exploratory findings also suggest a gendered pattern in irregularization (H4.1). Expulsion measures impact men more frequently than women (16% versus 9%). For 9% of men, the expulsion order adds to a period without any documents, compared to 5% of women in the same situation. However, the proportion of migrants who have only experienced a period without documentation is similar for both men and women, and is even slightly higher for women (21% versus 20%). The proportion of irregular migrants also varies greatly according to their country of origin. The rates are highest for migrants from sub-Saharan Africa. Half of those coming from non-French-speaking sub-Saharan Africa have experienced a period of irregularization. Non-EU European migrants are more protected against irregularization, but are not fully protected (H4.2). For example, the proportion of them who received an expulsion order is similar to that of French-speaking sub-Saharan Africans and Asians, and higher than that of North Africans. In order to continue these analyses combining gender and race, it will be necessary to examine the rates of irregularization by region of origin for men and women respectively, and to identify any discrepancies. Similarly, it will be necessary to examine whether there are gender and racial disparities in irregularization according to the reason for the first document obtained in France, building on Goldring and Landolt’s study (2022)

Figure 1. Distribution of experiences of irregularization among migrants’ social characteristics

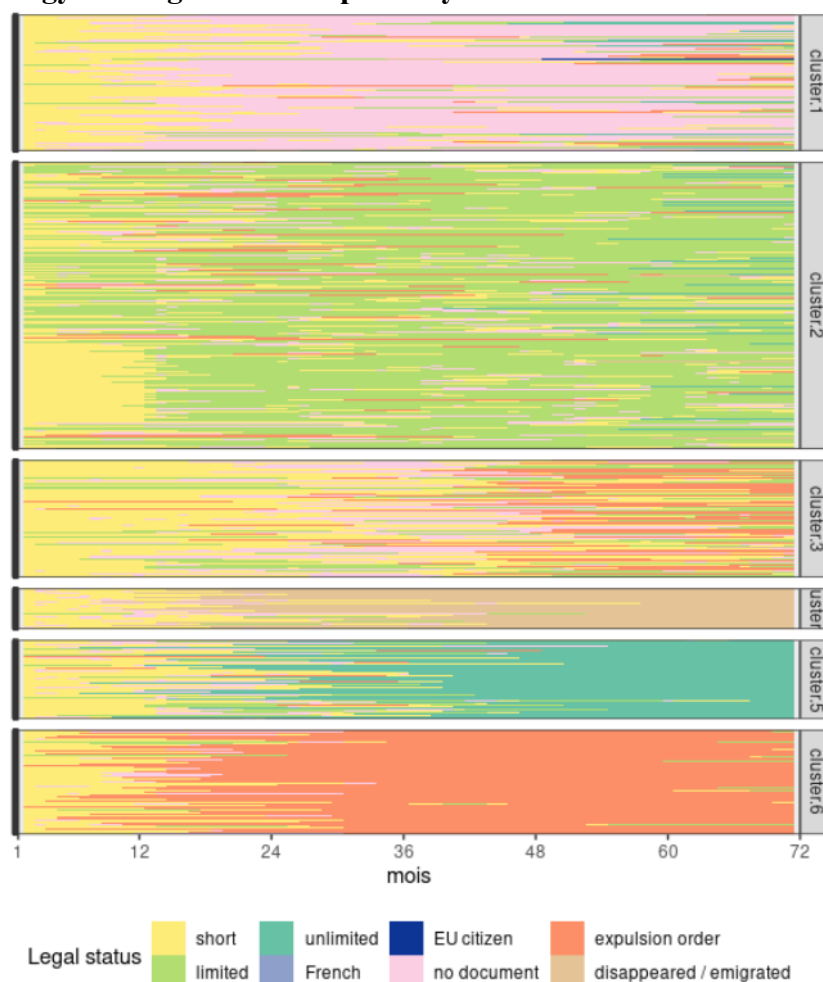


Sample: Immigrants who obtained a first document in France between January 2012 and January 2023 (N = 50,000)

Sequence analysis

The present analysis does not provide information on whether migrants became French during their first 72 months. This typology may change when this information is included. However, preliminary findings suggest a variety of pathways to irregularisation, which can be grouped into six clusters.

Figure 2. Typology of irregularization pathways



Sample: Immigrants who obtained a first document in France between January 2012 and January 2017, and who experienced at least one month of irregularization (N = 9,453)

Table 2. Description of the typology

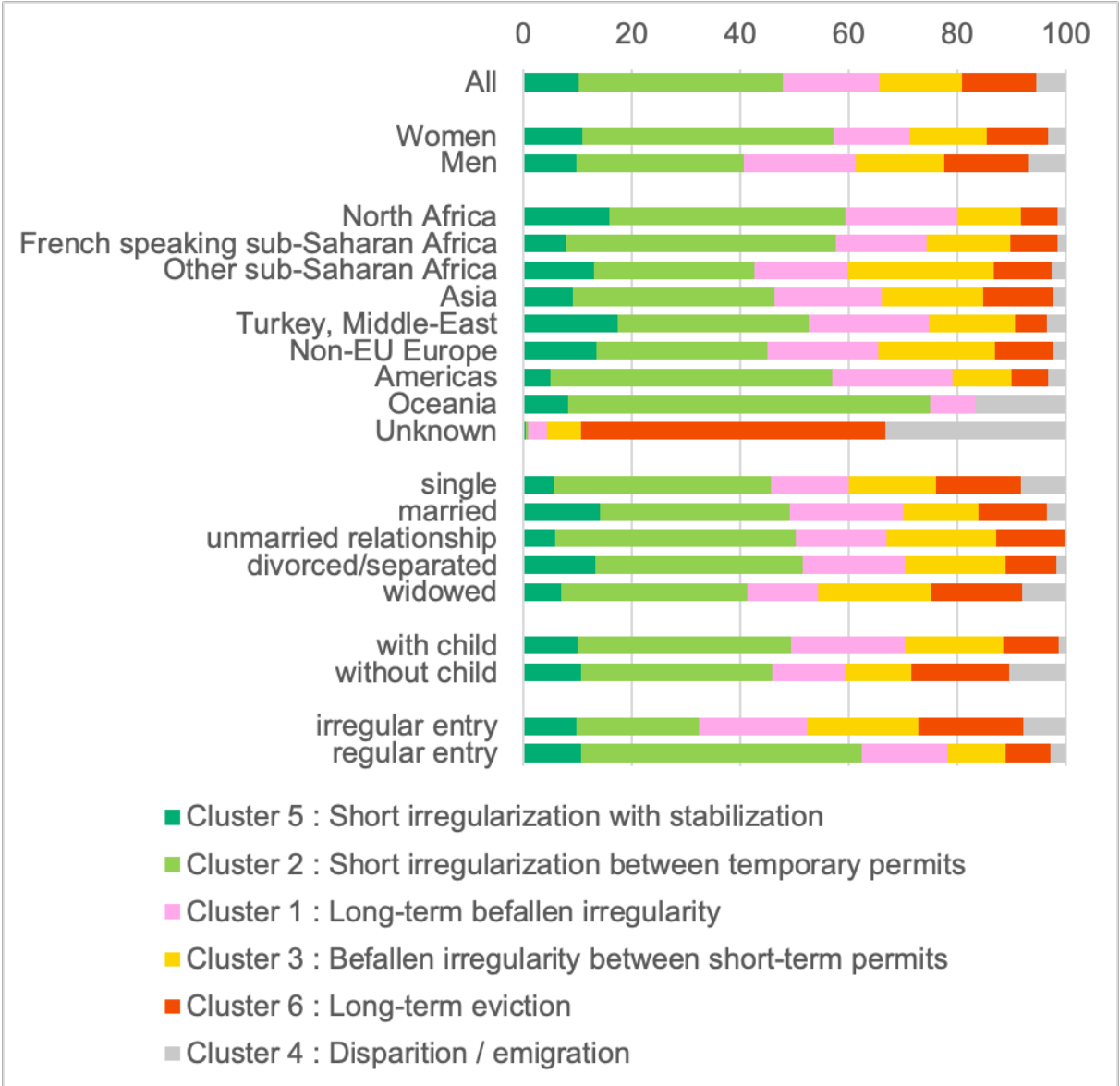
Cluster 1	Cluster 2	Cluster 3	Cluster 4	Cluster 5	Cluster 6
17.8% N = 1686	37.5% N = 3543	15.3% N = 1451	5.4% N = 509	10.3% N = 974	13.7% N = 1293
Long-term befallen irregularity	Short irregularization between temporary permits	Befallen irregularity between short-term documents	Disparition/emigration	Short irregularization with stabilization	Long-term eviction
After renewing their short-term documents for an	Migrants in this cluster have a temporary permit,	Migrants in this cluster experience longer periods of	After renewing their short-term documents for an	Migrants in this cluster experience short	Migrants in this cluster received an

average of 16 months, migrants in this cluster spend an average of 44 months without any documents. About 40% of them return to regular status after six years.	but experience short periods of irregular status between renewals. On average, they are undocumented for 5,5 months and under an expulsion order for 3 months.	liminal legality, on average 33 months with a short-term document. In two thirds of cases, their undocumented period ends with a return to a short-term document.	average of 17 months, migrants in this group disappear from the AGDREF file until at least 2023. Some of them are emigrants who declared a departure	periods of irregular status, but obtain unlimited residence after an average of 31 months	expulsion order and did not return to legality for an average of 52 months.
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I examine how each cluster is distributed among different subgroups of immigrants. The preliminary findings for the overall migrant population are confirmed for the subsample with at least one month of irregular status. Gender inequalities exist in the duration and nature of irregularization (**H4.1**). Women are more likely to experience short irregularization between regular statuses. Men are more exposed to expulsion or long-term befallen irregularity. Migrants who are irregular upon entry are much more likely to be on a precarious legal trajectory involving long periods of irregular status. A striking finding is the significant proportion of administrative vulnerability among non-EU immigrants (**H4.2**); the percentage of those in a trajectory of long-term eviction (cluster 6) or liminal legality (cluster 3) is comparable to migrants from non-French-speaking sub-Saharan countries. Thus, overall, people from non-EU European countries tend to be protected from irregularity (see Figure 1). Although they are few in number, those Europeans affected by irregularity experience particularly precarious administrative situations.

However, the results concerning origins may be biased due to the highly specific distribution of individuals of unknown nationality (10% of the sample). One third of these individuals have “disappeared” from the AGDREF file, and 56% are on a trajectory of long-term eviction. I suspect that the failure to record nationality is not evenly distributed and that it is often omitted for migrants who immediately receive an expulsion order.

Figure 3. Distribution of irregularization trajectories among migrants' social characteristics



Sample: Immigrants who obtained a first document in France between January 2012 and January 2017, and who experienced at least one month of irregularization (N = 9,453)

Table 3. Summary of hypotheses tests (preliminary findings)

H1. Cumulative forms of administrative precariousness	Confirmed
H2. Legal migration opportunities	Confirmed
H3. Family ties	Partially confirmed
H4.1. Impact of gender	Confirmed
H4.2. Impact of origin	Invalidated