

“(...) here I have freedom”—A study of refugees’ and asylum seekers’ legal consciousness in Greece: Self-identity, human rights, and expectations from European Union law

Sofia Graca  | Violeta Kapageorgiadou 

Canterbury Christ Church University,
Canterbury, UK

Correspondence

Sofia Graca, Canterbury Christ Church
University, North Holmes Road, Canterbury,
CT1 1QU, UK.

Email: sofia.graca@canterbury.ac.uk

Abstract

This paper adds to the existing knowledge on migration and the law by empirically exploring the legal consciousness of 33 refugees and asylum seekers in Greece, more specifically, by discussing how their experiences, self-identity and expectations of the law inform their reactions to the restrictions imposed upon them. The findings suggest that (1) legal knowledge is acquired in the countries of origin and from contact with smugglers, other migrants, law enforcement agents and staff from NGOs; (2) this knowledge allows them to forge an identity as “rights-bearers,” which (3) together with perceptions and expectations of human rights law and European Union policies on migration, (4) empower them to claim protection from the Greek state, and (5) legitimizes their actions, even if these sometimes involve subterfuge. Despite their particularly vulnerable positions, refugees and asylum seekers are, therefore, not mere passive receivers of state power, but also try to use the law to overcome adversity, in an almost game-like fashion.

1 | INTRODUCTION

Forced migration is a significant worldwide phenomenon. More than 82 million people were displaced in 2020, with 26.4 million of these being refugees and 4.1 million asylum seekers (ECHO, 2021). A significant number of these reached European shores, especially after 2015, with the start of the war in Syria and political upheaval in other Middle Eastern and African

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countries. Greece has hosted thousands of these individuals, many of whom navigated their way through national and international legal systems with a view of either asking for asylum in this country or moving elsewhere to settle (ECRE, 2021; UNHCR, 2015).

Although much has been written about migration, studies on this subject tend to overlook detailed, subjective experiences with the law that determine how individuals relate to the justice system and respond to the obstacles they encounter. In contrast, exploring legal consciousness entails taking on a bottom-up approach to uncover how law shapes everyday views of the world; how individuals understand and use it (or not) rather than focusing on the application and development of law from instances of power ‘downwards’ (Ewick & Silbey, 1998, p. 46; Hull, 2003, p. 630; Nielsen, 2000, p. 1058). Some authors have bridged the two areas and, working at the intersection of studies of migration and legal consciousness, researchers like Abrego (2008, 2011, 2019), Gleeson (2010), or Kubal (2015) are often quoted for demonstrating the complex nature of migrants’ interpretation and mobilization of law, and its underlying aspects. Less attention has been paid to the legal consciousness of refugees or asylum seekers, specifically, who are a subsection of the general migrant population.

International agencies use the terms refugees and asylum seekers to refer to individuals who are forced to leave their countries due to fear of persecution, conflict, or violence and are unable or unwilling to return (European Commission, 2022; UNHCR, 2017, 2022). Refugees and asylum seekers are usually distinguished from migrants who “choose” to leave their countries of origin seeking social and economic benefits elsewhere and may or may not have legalized status in the countries of destination. They form a particularly vulnerable group, consisting of individuals from different nationalities, cultures, and socioeconomic backgrounds, who often leave their countries of origin due to extreme events, travel under dire circumstances, and are highly motivated to enter the countries of destination. This paper devotes its attention to this group, although acknowledging that distinctions between migrants are fraught with difficulties.

This paper contributes to a growing body of literature on legal consciousness and migration in that it adds to a better understanding of refugees’ and asylum seekers’ actions and, in doing so, provides scope to better support them in their journeys, while shedding light on the unintended consequences of the European Union (EU)’s migratory policy—particularly of the proliferation of securitization in the control of irregular migration. More specifically, this paper problematizes the legal consciousness of refugees and asylum seekers in Greece to understand their relationship with a complex and often harsh migration system. It analyzes their perceptions and expectations of the EU’s migration system and the behavior adopted as a result. It queries experiences with the migration process, based on in-depth semi-structured interviews with 25 refugees and asylum seekers at the premises of an NGO situated close to the Greek northern border, as well as on participant observation undertaken with a further eight participants. Although participants’ different gender identities, sexual orientation, age, religion, and countries of origin are referred to during the findings and analysis sections, the authors recognize that aspects of intersectionality warrant further research. This size of the sample also limits the generalizability of the findings, which is in keeping with the qualitative methodology adopted.

The findings suggest that participants, as refugees and asylum seekers in other research discussed here, adapt their behavior according to the challenges they face, using knowledge acquired in their countries of origin and from contact with smugglers, other migrants, law enforcement agencies, and NGOs. They display an adaptable legal consciousness that pushes them to try to benefit the best they can from the circumstances and challenges they encounter. For example, although portraying themselves as law-abiding, they do not find it problematic to go outside the boundaries of state legality when necessary to secure a desired outcome, usually of being able to move on to another country or to find housing and employment in Greece. They justify this by using “international human rights law” or simply “human rights law” (defined broadly as such by themselves), enabling them to see themselves as right-bearers

deserving protection. Even though they often would not be able to specifically quote which law they are referring to, by making use of their knowledge and expectations of EU and this international human rights law, our participants forge an identity that allows them to claim the same protections as any other citizens living in Greece. As such, despite their particularly vulnerable positions, refugees and asylum seekers here are not merely passive receivers of state power but instead use the law to their advantage in an almost game-like fashion; this is transversal to the population interviewed, regardless of gender, sexual orientation, age, or country of origin.

1.1 | Migratory context to the EU

The concept of free movement in the EU was first introduced in 1985, with the signing of an agreement for the gradual abolition of border checks between five of its Member States, namely the Netherlands, France, Luxembourg, Belgium, and Germany (Prakoso et al., 2021, p. 175; Wassenberg, 2020, p. 30). Eventually, the Schengen Agreement was enacted, with the Amsterdam Treaty of the European Union in 1997, which foresaw the free movement of people within the EU and some non-EU countries. It was aimed at allowing a form of European integration that permitted citizens to travel, work, and live in other “Schengen countries” without many formalities (European Commission, 2019; Wassenberg, 2020).

Over the past decades, millions of individuals from Middle Eastern and African countries have migrated to Europe to seek refuge (UNHCR, 2018). The migration policies of some EU states, such as Sweden, Germany, and Austria, and some non-EU countries, like Serbia, helped in the establishment and facilitation of a “Balkan route” by providing safe transportation to migrants along this area (Kasperek & Speer, 2015; Zoppi & Puleri, 2021, p. 2). In time, the Balkan route became the main migratory path to the EU, with more than 750,000 crossings in 2015 alone (Frontex, 2021). Migrants entering Greece usually pass through non-EU countries, such as North Macedonia and Serbia; they then re-enter the EU to carry on their journey through Hungary and Croatia, with a view of reaching other Western European States within the Schengen area (Frontex, 2021). The initial welcoming of migrants by economically strong and sociopolitically open European states, such as Germany, naturally encouraged more migrants to follow the Balkan route (Kasperek & Speer, 2015).

In parallel, the right to asylum and the protection of fundamental rights are recognized by the Charter of Fundamental Rights of the EU (e.g., Article 18), and the Treaty of Amsterdam of 1999, which marked the beginning of the first phase of the development of a Common European Asylum System (CEAS) across the EU States. The CEAS’ objective was to set common minimum standards regarding the reception of asylum seekers, determine the qualification criteria and the nature of the protection, and set the criteria for granting and withdrawing refugee status (European Parliament, 2019). In 2009, the Lisbon Treaty followed, transforming asylum measures from ‘minimum standards’ to a common asylum system with a “uniform status” and “uniform proceeding” (European Parliament, 2019). The CEAS ensured the equal and fair treatment of asylum seekers wherever they may apply for asylum (European Commission, 2022).

An instrument that ensures the operation of the CEAS is the Dublin III Regulation of the European Parliament of 2013. With the abolition of internal borders in 1985, the movement of asylum seekers within the EU became easier, and issues of State responsibility for asylum applications surfaced (Mitchell, 2017, pp. 300–301). The Dublin Convention was established to determine which Member State would be responsible for an asylum seeker; its purpose was to ensure quick access to protection for asylum seekers and, at the same time, prevent them from choosing a particular Member State they found more propitious for this (Mitchell, 2017, p. 301). In the following years, Dublin Regulations II (2003) and III (2013) replaced the Dublin Convention. Dublin II introduced a multinational biometric system, the European

Dactyloscopy System (EURODAC), the EU's fingerprint database (European Parliament, 2015). Dublin III provided provisions for the protection of applicants, including personal interviews, protection of minors with possibilities of reunifying them with family members, free-of-charge legal assistance upon request, strict limitation of the duration of detention, and guarantees on the right to appeal (European Commission, 2020).

In addition, the European Border and Coast Guard Agency (Frontex), introduced in 2004, played a significant role in shaping today's migration policies and management in the EU. Frontex is tasked to surveil the EU borders, fight cross-border crime and assist in return operations (Frontex, 2024). With the addition of the standing corp in 2019, Frontex became the first EU uniformed service supporting EU states in managing the EU's external borders (Frontex, 2024).

However, the Dublin Convention, the Dublin Regulations II and III, and Frontex are criticized as an attempt to securitise migration further and restrict migrants' movement to EU states (Papoutsi et al., 2019). It can be argued that Regulations II and III protected Northern EU states from irregular migration by allowing them to send asylum seekers back to the first safe country they reached when they entered the EU (Papoutsi et al., 2019). For most asylum seekers, the first safe EU countries were states at the EU's external borders, such as Greece, Italy, Malta and Spain, which led to conflicts among Member States regarding the distribution of applicants (Lavenex, 2018, p. 1196).

Following these changes to migratory patterns and legislation, the countries that received the most asylum applicants faced severe economic and administrative problems (Davis, 2020, p. 262; Guiraudon, 2017, p. 154). Greece became the preferred point of entry for migrants to Europe from 2015 onwards, with more than 800,000 entering this country in that year (Lamb, 2016, p. 69). The Greek migration system had been criticized widely in the past as weak and inadequate for violating human rights of migrants and asylum seekers, not following international standards in examining asylum cases and having the lowest rates for granting asylum in the EU (Karamanidou, 2021; Rozakou, 2021; Triandafyllidou & Ambrosini, 2011).

Unfortunately, the implementation of CEAS and other regulations regarding the reception and protection of migrants in Greek national law in the last decade appears to have failed, once again, to meet the legal standards set by the EU (Karamanidou, 2021). In addition, the EU's delay in providing help to Member States with overburdened asylum systems prolonged these difficulties (Menendez, 2016, p. 388). Notably, Italy experienced an asylum system overload in 2014, and Greece experienced a collapse of its system in 2015, causing a secondary movement of asylum seekers from the points of entry to Northern European States (Menendez, 2016, p. 388).

The flow of irregular migrants and their secondary movement within the EU caused emergency measures to be taken and a revision of the migration policies in place (European Commission, 2015). The EU's failed attempt to protect migrants and the politicization of migration transformed into a discussion of security threats (Bello, 2020; Ferreira, 2018, p. 58; Huysmans, 2000; Léonard, 2010, p. 231). Migration policies started prioritizing security over the safety and well-being of migrants (Jaskulowski, 2018, p. 711; Rizova, 2019, p. 78). Under the guise of protecting migrants from smugglers and traffickers, security discourses legitimized the use of force through "search and destroy" and "pushback" operations by the Frontex and the diversion of migrants to third countries after the EU-Turkey deal (Hintjens, 2019, pp. 186–191). The representation of migrants as victims of trafficking was reframed and rather than a victim narrative, the new perspective now connected migration with criminality (Huysmans & Squire, 2009, p. 12).

After the EU's regulations and policies appeared ineffective in response to the increasing number of incoming migrants, one of the emergency measures was the closure of borders by certain EU and non-EU states. In 2020, Greece closed its borders to refugees coming from Turkey, with the EU's foreign affairs chief, Josep Borrell, warning refugees to avoid moving

toward closed borders (Ng, 2020; Rankin et al., 2020; Reuters, 2020). Freedom of movement ceased within EU borders for the first time in 20 years, with Member States strengthening their border controls and thousands of migrants left stranded on the Greek islands and mainland (International Rescue Committee, 2022).

Inevitably, a new approach to managing migration was employed. Hotspots (which work as first reception facilities) were presented by the EU as mechanisms to assist EU agencies and national authorities in the reception and identification of asylum seekers and migrants (European Parliament, 2023). EU agencies such as Frontex, the European Agency for Asylum (EASO), the European Union Agency for Law Enforcement Cooperation (Europol), and the European Union Agency for Criminal Justice Cooperation (Eurojust) are stationed in hotspots to assist states with claims of asylum and relocation, the removal of migrants and finally the investigation and prosecution of crimes (Papoutsis et al., 2019).

Nevertheless, hotspots have been criticized for being a measure to control migrant mobility through militaristic practices (Papoutsis et al., 2019). It is argued that since the EU-Turkish agreement in 2016, hotspots have become the main apparatus for migration control (Kourachanis, 2018). While Greece was mainly a transit country, dealing with 13,195 asylum applications in 2015, after 2016, the number of asylum applications reached 51,000 (Kourachanis, 2018). Greece converted its temporary accommodation policies into long-term integration policies and amended its asylum law by creating the General Secretariat of Reception (European Commission, 2016; Kourachanis, 2018). The Secretariat was established as an attempt to improve Greece's reception system supervising services provided to asylum seekers (Kourachanis, 2018); integration policies provided necessities, access to health care, education, and informed migrants about their rights.

In practice, hotspots turned from reception into detention centers that restricted free movement and, at the same time, operated as a means to discourage individuals from seeking asylum (Garelli & Tazzioli, 2018). The Greek government established hotspots on the islands that received the most migrants and set a 25-day detention period for the migrants and later their geographic restriction prohibiting them from leaving the island (Karamanidou, 2021; Kourachanis, 2018). In addition, the government prioritized the asylum application of certain nationals disregarding the circumstances, date of arrival, or vulnerability of other applicants which led to long delays in registering and examining asylum applications (Kourachanis, 2018). The detention periods and the delays in registration led to the overpopulation of the hotspots and, as a result, migrants ended living in inhumane and degrading conditions for long periods of time (EDAL, 2019). Hotspots can be viewed as a form of biopolitics applied to human livestock—livestock of low value for the EU, whose desperation for survival deems them dangerous and, therefore, need to be restrained and deprived of free movement and other liberties (Kourachanis, 2018).

1.2 | Legal consciousness and perceptions of law

Scholars in socio-legal research have been studying the relationship between law and society, at least, since Pound's (1910) work on the distance between "law in books" and "law in action," questioning the static nature of law as it emanates from instances of power and impacts on people's lives. From then, socio-legal research evolved into different approaches. As part of this development, studies of legal consciousness emerged, which view law and legal rules as an integral part of everyday life, interrelated with society and hidden in social practices that help people make sense of the world (Marshall, 2014, p. 243; Mezey, 2001, p. 145). They find the law present in all aspects of social life, and its effects manifested in commonplace, everyday activities (Chua & Engel, 2019, p. 336; Silbey, 2018, p. 698), something that will be developed in this paper.

Exploring legal consciousness reveals how laws affect and shape individuals' actions and their views of the social world, how they understand the law, and how they use it (Ewick & Silbey, 1998, p. 46; Hull, 2003, p. 630; Nielsen, 2000, p. 1058). Interactions with the law influence decision-making; people refer to the law to resolve disputes, and even when they decide to avoid litigation (Larson & Schmidt, 2014, p. 173), whether or not they are fully aware of official statutes (Marshall, 2014, p. 243). However, this relationship is not unidirectional, as the law interacts with social, structural, and contextual variables in the creation of legal meanings and systems (Harding, 2011, p. 17), which will become evident in the analysis presented here. Such an approach rejects a narrow view of the law and allows the analysis to include cultural codes and a common sense of the law when interpreting everyday facts (Cowan, 2004, pp. 928–932; Ewick & Silbey, 1998, pp. 20–21; Harding, 2006, p. 513; Hull, 2003, p. 630; Saguy & Stuart, 2008, p. 158). Exploring refugees' and asylum seekers' legal consciousness allows us to begin to understand how this interplay between the law (state and international) and refugees' and asylum seekers' social, structural, and individual circumstances shape their decision-making and how they position themselves in relation to the state and the wider international community.

Ewick and Silbey (1998) introduced a model of legal consciousness that was hugely influential and is still often used as a starting point for the analysis of legal consciousness. According to them, individuals who stand “before” the law perceive it as a fixed, objective, impartial, and rational system of rules that is distant from daily life and cannot be altered by individual action. They usually accept the law as the appropriate vehicle for justice, regardless of the result, and respect it even in cases where they might find it unfair (Ewick & Silbey, 1998, p. 47). Those who stand “with the law” perceive it as a game or a tool they can use for their personal gain. Here, the law is part of everyday life rather than a distant, fixed system of rules. They rely on their own power and resourcefulness to meander legal rules or even invent new ones to fulfill their desires. These individuals appear to give less weight to the power of the law and more to their own ability to achieve a desired outcome (Ewick & Silbey, 1998, p. 48). Finally, those who stand “against the law” are individuals who usually feel that the law is unfair and that they are trapped by it. They try to avoid and resist the law through social practices, such as small deceptions, omissions, or humor (Ewick & Silbey, 1998). Individuals may avoid or resist the law to maintain their dignity and honor, for revenge, or even to reinstate justice (Ewick & Silbey, 1998). Resistance can also be used as a message to others that the law can be opposed, at least to some degree (Ewick & Silbey, 1998, pp. 48–49). Individuals who stand “against” the law are usually members of disadvantaged groups (Ewick & Silbey, 1998, p. 235). We argue that the refugees and asylum seekers discussed in this paper are members of a disadvantaged group due to the socioeconomic and political shortcomings they face in their migratory journey. Whether their legal consciousness can be seen as primarily “against the law” is something that will be discussed later in this piece.

Ewick and Silbey's work on forms of legal consciousness has been expanded in ways that resonate with the findings in our research. Fritsvold (2009), Harding (2011), and Halliday and Morgan (2013) added new dimensions to the concept of resistance, hoping to better reflect the responses of the populations they studied to the power of the law. Hull (2003), and Levine and Mellema (2001) suggest that there is evidence of resistance in respondents “with the law,” be it the appropriation that same-sex couples make of the terminology of the law to define their relationships (Hull, 2003, p. 632), or how “street women” navigate the justice system, for example, by using incarceration to gain respite, medical attention, and plan their next course of action (Levine & Mellema, 2001, p. 183). Hernandez's (2010, pp. 101, 116) suggest that individuals can shift their legal consciousness from “against” to “with” the law by learning how and when the law can be helpful to advance their goals. This acquired legal knowledge can be obtained through personal experiences, the media, networks, and by using legal resources, allowing them to view the law as an apparatus for rights claiming. Similarly, Nisar (2018) shows that while

there is a legal third-gender category in Pakistan, gender non-conforming individuals often legally identify as male to continue having access to legal and social benefits associated with this gender. Hertogh (2018, pp. 7–12, 177), in turn, asks us to question the pervasiveness of law in everyday life. He suggests that individuals ‘turn their back to law’ in a form of “legal alienation”; they distance themselves from the law, from which they no longer identify (Hertogh, 2018, pp. 14–15, 43, 149–153, 179–180).

Studies that discuss legal consciousness specifically related to migrants often look at one population’s relationship with the justice system of the country of destination. Often quoted are Abrego’s (2008, 2011, 2019) pieces with Latinos in the USA, or Kubal’s (2015) research on returned Ukrainian migrants’ relationship with the legal system. Frequently, these studies research undocumented migrants (Güdük & Desmet, 2022, p. 214), but this is not always the case; for example, de Hart and Besselsen’s (2020) research on Dutch women’s experiences of the migration system’s reunification policies with their migrant partners or Graca’s (2015, 2017) research on Portuguese-speaking women’s perceptions and reactions to domestic abuse in the United Kingdom.¹

Most research in this field focuses on state law, at least as a starting point for the discussion (see Güdük & Desmet, 2022, p. 216). Exceptions to this include Chakraborty et al. (2015), who analyzed refugees’ relationship with the EU law, and Namukasa (2018), who discussed migrants’ relationship with international human rights law. The research presented here takes on a pluralistic approach, questioning the role not only of state law but also reflecting on the role of EU law and international human rights law on how migrants navigate their status, self-identification, and attempts at achieving their ultimate goals.

1.3 | Refugees’ and asylum seekers’ legal consciousness

Although there has been a recent proliferation of studies on migrants’ legal consciousness (see Güdük & Desmet, 2022; Miezanskiené, 2020), few studies have focused specifically on refugees and asylum seekers. Of these, some insightful findings for our research include those made by Papadopoulou (2004, p. 167), who explored the settlement process of Kurds in Greece, linking “transit migration” (migrants coming to a country but ultimately moving into another country) with the shortcomings of infrastructure and policies in the reception of migrants in Greece and the EU more widely, and Lendaro and Roland’s (2022, pp. 2, 6–9) reflections on the legal consciousness of minors at the French–UK border, who are also “in transit” and whose dealings with a complex, “control and pushback” migration policy and experiences with law enforcement lead them to reject institutional support, relying instead on family help and learning from peers. Through their negative experiences with the migration system, these children’s legal consciousness tends to evolve to something akin to being “against the law,” which translates into defying institutions, even those that are supposed to support them (Lendaro & Roland, 2022, pp. 11–12). Schwenken (2013), in turn, draws attention to the use of transnational legal knowledge by migrants as a basis for claiming rights in the host country and to a game-like approach to improving their living and working conditions. Chakraborty et al. (2015) explored migrants’ legal consciousness in relation to the EU’s Dublin system, which, as explained here already, determines where a refugee can make a claim for asylum and the states’ responsibilities in this process. They argue that refugees overwhelmingly have a negative view of the law, perceiving it as frightening, confusing, and threatening, and the Dublin system as “complicated” (Chakraborty et al., 2015, p. 15). Their discourses, although sometimes conflicting, and spanning all forms of legal consciousness, confirm the hegemony of the Dublin system, that remains “kind of a mystery” (Chakraborty et al., 2015, p. 15). Importantly, perceptions are transmitted by interactions with other refugees, so that they extend even to those without contact with the system, in what they describe as a “chain reaction” (Chakraborty et al., 2015, p. 15). Singer (2019)

draws attention to the role of non-legal actors, including stakeholders and peers, in the perception and experiences of immigration law by asylum seekers in detention centers in the United Kingdom. Here, other detainees are vital sources of legal information (Singer, 2019, p. 15), as are “semi-authoritative” actors such as doctors and faith leaders (Singer, 2019, pp. 8, 15). Rumors and suggestions from other detainees, staff at Immigration Removal Centres, and others with whom asylum seekers come in contact with pre- and post-detention are essential for many to navigate the immigration system (Singer, 2019, p. 10). The immigration process feels unpredictable, irrational, and akin to a lottery (Singer, 2019, p. 10) and there is lack of contact with the Home Office, legal representatives and case workers; communications with the outside world are difficult, all leading to a feeling that migrants are isolated in a “desert island” without information about their situation or access to support (Singer, 2019, pp. 11–16). They exist in a “limbo” during which time they are not able to start new lives, for example, by finding employment (Singer, 2019, p. 27). Their legal consciousness can be described as being “with the law” as they were not “beaten” by the system but tried to engage with it and reassert their authority by becoming knowledgeable and taking ownership of their cases before the system; at the same time, they were also “against the law,” resenting it and seeing it in oppositional terms (Singer, 2019, p. 28).

Haddeland (2021) draws attention to the rejected asylum seekers’ legal status in informing their responses to the difficulties they encounter in Norway. Focusing on collective dissent, Haddeland highlights that her research subjects actively use their interactions with the state to advance their circumstances (Haddeland, 2021, p. 647). They also display an evolving legal consciousness from when they arrived in Norway, which is informed by expectations of the legal system (e.g., that their human rights would be protected) and is akin to being “before the law” to becoming “against the law” when they interact with the state and see the asylum-seeking process as unfair and trapping (Haddeland, 2021, pp. 655–656). Barbero’s (2024) more recent publication on return orders and the appropriation that is made by migrants in Spain of these administrative documents also begs reflection on migrants’ evolving interactions with the law. He found that return orders were transformed from potential instances of sanction, due to lesser level of guarantees awarded to those who receive them, into safe-conducts that allow them to travel within this country, due to low levels of enforcement after their expiration period of 60 days (Barbero, 2024, pp. 169, 172–173); moreover these documents officially mark the beginning of a potential regularization of their status (Barbero, 2024, p. 174), effectively allowing them to claim rights within this country (to move freely within Spain for 60 days and to claim basic rights during this period and potentially afterward; Barbero, 2024, p. 175). Keeping with the theme of claiming rights, Holzer’s (2013) work in a refugee camp in Ghana reveals that, with time, refugees start to “see themselves as rights holders under the protection of the international community,” while at the same time feeling excluded from benefiting from the rights of citizenship (Holzer, 2013, p. 839). More specifically, they see themselves as rights holders in relation to humanitarian law; on this basis, they protest against a lack of access to rights in Ghana, which are accessible to citizens of this country (Holzer, 2013, p. 864).

In a similar vein, participants in the research that forms the basis of this paper also see themselves as rights-bearers, and it is this identity, informed by an understanding of EU and international rights law that informs how they relate to the migration system in Greece. As such, we now turn our attention to the concept of identity and its relationship with legal consciousness.

1.4 | Identity and legal consciousness

According to Ewick and Silbey, different “forms” of legal consciousness are the result of an interaction between “schemas” and “resources,” that is, cultural codes, conventions, and material and human assets, such as capital or political connections (Ewick & Silbey, 1998, pp. 40–41). The interplay between schemas and resources leads to a constant redefinition of each, in an inter-

dependent relationship, by which schemas give resources meaning but also rely on them to be invoked (Ewick & Silbey, 1998, p. 41). In this context, how individuals perceive themselves is crucial to how they view the world and behave in it. As such, many studies have focused on identity, particularly on how individuals understand and mobilize the law to assert rights (e.g., Abrego, 2008, 2011; Aidinlis, 2019; Ewick & Silbey, 1998; Fritsvold, 2009; Merry, 2003; Nielsen, 2000; Young, 2014).

Identity theory suggests that identity is constructed of the meanings attached to different roles individuals have in a social structure (Stryker & Burke, 2000, p. 284; Stets & Serpe, 2013, p. 34). Individuals form social categories (with corresponding power, prestige, and status) name themselves, and one another, using terms that symbolize their positions in these social structures (Stets & Burke, 2000, pp. 224–225). This (self)identification is based on social characteristics that individuals recognize in themselves and others, such as gender, race, nationality, or religion (Lawler, 2014, p. 163); the combination of these social categories is unique for each individual (Stets & Burke, 2000, p. 225). Identity is, therefore, connected to the different positions and roles individuals occupy in society, the social categories they belong to, and their networks (Colic-Peisker & Walker, 2003, p. 338). For instance, a migrant can be a mother, an employee, a colleague, a friend, belong to a particular racial, religious, or migrant group, and so forth.

These positions and groups have meanings and produce expectations that guide behavior. However, one should distinguish between the roles of individuals and their identities, as the roles individuals undertake are sometimes developed through norms structured by institutions in society, while identities are constructed through self-identification (Castells, 2010, p. 7). Of course, these roles and identities can overlap. Moreover, the roles bestowed to individuals by institutions can become identities when individuals internalize them (Castells, 2010, p. 7). Young (2014, p. 524) exemplifies this in her study of the legal consciousness of cockfighters in Hawaii, in which the cockfighters' perceptions of themselves as "law-abiding" citizens collided with the label of "criminal" imposed by the law and made them less likely to cooperate with the legal system and participate in civic duties.

Migrants carry their cultural practices, historical memories, and understanding of legal norms from their home countries and use them to navigate society in host countries (e.g., Barbero, 2013, p. 363; Graca, 2015; Marshall, 2006, p. 230). Once reaching a host country, they interact with society's norms through work, public services, and the communities they live in (Kubal, 2013, p. 66), and when individuals from different cultures encounter each other, cultural changes occur in both groups (Titzmann & Lee, 2022, p. 1). For example, Portuguese women are found to be influenced by traditional Portuguese culture, family bonds, and community pressures, which prompt them to hide experiences of domestic violence (Graca, 2017, pp. 428, 430, 432). Importantly, their discourses and attitudes toward domestic violence influence the community of other Portuguese women by signaling what the expected course of action in that situation is (Graca, 2021). Abrego (2011), in turn, suggests that the age and identity of undocumented migrants in the USA significantly influence their willingness to mobilize the law. Migrants who arrived in the host country at a younger age had the chance to internalize local social norms, for example, through school, and, thus, are more likely to use the law to make claims than first-generation migrants.

According to Hernandez (2010, p. 116), individuals need to be exposed to legality to understand and acknowledge how and when the law can be helpful. Schwenken (2013, p. 139) shows that undocumented migrants in Germany are not only aware of the host country's laws but also of the differences between the German and the EU laws. This awareness of international law derives from other migrants' personal experiences, international organizations, and trade unions. According to Shteynberg (2010, pp. 683–684), migrants tend to tune their memories with other group members and share the same attitudes, even if they never shared the same experiences.

2 | METHODOLOGY

The methodological approach used for the collection of the data that underpins the current article consists of in-depth, semi-structured interviews with 25 refugees and asylum seekers who spent less than 5 years in Greece, as well as participant observations of a further eight migrants. Participants were male (18 participants) and female (15 participants), their ages varied between 18 and 40 years of age, and their religion was mainly Muslim (20/33 participants). Their countries of origin were Middle Eastern (Syria, Iran, Iraq, Lebanon, Turkey, Afghanistan, Pakistan, Kuwait) and African (Algeria, Morocco, Ghana, Cameroon, Somalia). They lived in refugee camps, host centers, or privately rented properties. The host centers were usually government-funded hotels used to decongest the overcrowded refugee camps. Those who rented properties did so with the help of the government and EU funds. Participants were provided with consent forms and an information sheet regarding the research, its procedures, and its purpose.

Participants were interviewed and observed at an NGO's premises, which they visited to receive help. In the first instance, attempts were made to gain access to refugee camps for the recruitment of participants, which proved unfruitful. However, some of the camps' gatekeepers suggested NGOs be contacted for the recruitment of participants. Several NGOs were subsequently approached until an international institution showed interest in this research. Its staff recommended potential participants who met the research criteria (i.e., who spoke English, were over 18 years of age, and living in Greece for less than 5 years).

A diary was kept for the participant observations, and the interviews were audio recorded. The data from the semi-structured interviews were transcribed in digital form. The words of the participants were transcribed verbatim, and the syntax was not corrected. The notes that were taken during or right after the fieldwork were as what Atkinson (1992, pp. 16, 22) describes as "inscriptions" and "transcriptions"; the inscriptions included descriptions of the interaction and the events that occurred in the field and the transcriptions included representations of conversations and the participants' own words.

The data gathered from the interviews were subject to thematic analysis, mainly with the help of NVivo computer software, while the field notes were analyzed manually. Codes were given to the data, then matched and compared with each other. The codes were rearranged and organized into categories according to the information they provided. In some cases, codes that included similar information were merged. Later, the codes were reviewed and repositioned to form clusters of the same theme; however, the final themes were developed manually. A similar procedure was followed for the analysis of the field notes, which were coded and categorized manually, using the codes already created from the interviews as the initial guide. The two sets of codes (from interviews and field notes) were later combined and analyzed together. From this process, different themes and subthemes emerged that helped in the interpretation of the data and the production of new meanings.

Several themes and subthemes arose from the interviews and observations. The main themes regarded migrants' experiences in their home countries, as well as their knowledge of law and rights. The participants talked about their lived experiences with law and rights and how these contributed to their decision to migrate to Greece. They also focused on the aspects of their lives crucial to their socioeconomic survival in Greece. The themes are presented in more detail in the next section.

3 | FINDINGS

Participants were asked to relay the motivating factors for leaving their countries of origin and seeking refuge in Greece. They were asked about their journeys, their understanding of law

and society in Greece and the EU, how they acquired this knowledge, and their expectations once settled. As the interviews were semi-structured, participants often deviated from the questions and relayed information they thought would be helpful for our understanding of their circumstances and aspirations. The transcriptions below are taken *ipsis verbis* from the interviewees' narratives, and the findings are presented under two broad headings: "experiences from the country of origin" and "knowledge of law and rights."

3.1 | Experiences from the country of origin

Respondents experienced several circumstances that prompted them to leave their countries. These can be grouped into four main areas: escaping war or conflict (13/33), reasons associated with political and civil rights (8/33), and the impact of religious and cultural practices (6/33). Some of these categories overlap, and precedence was given to the one that was mentioned most often or emphatically for the purposes of the analysis. Other reasons mentioned were family reunification, seeking a better quality of life, and lack of social freedoms (6/33); these are no less important than the previous categories, merely were identified less often in participants' discourses than the previous ones.

3.2 | Escaping war or conflict

The consequences of war and conflict forced 13 participants to leave their homes in search of safety for themselves and their families. They mentioned the fear of death, inhumane living conditions, and a lack of jobs, food, and water as reasons for fleeing.

As one participant from Syria explained:

Because of the war, of course, and in 2013 we leave from Syria to Iraq, north of Iraq, to Kurdistan. There were war and no jobs, and many things like that, because when the war started, everything stopped, life stopped. Over that, they was hitting us, hurting us and did many things for us and because we are Kurdish we couldn't live in Syria to be safe.

Another mentioned fleeing for fear of being abducted and forced to participate in war or held for ransom:

...my area is near to Afghanistan border. So there is a lot of Taliban, they are crossing the border illegally and they want young generation and every person, and they want to join them. That's why I left... The Taliban they force you... they take your money and if you don't want to give them, they will force you. They will kidnap you.

Some of the participants brought their memories of war with them in videos and pictures on their phones. They shared images of their destroyed homes, the empty neighborhoods, and the injured people and animals, of soldiers executing civilians in the middle of a street and dismembered bodies after a bomb attack. When asked why they were carrying those artifacts with them, they said that these were evidence for the world to see what they had been through and a reminder of how their lives used to be. They served both as reminders of their decision to relocate and as evidence that justified their asylum claim.

3.3 | Political and civil rights

Participants whose discourses centered more on political reasons for fleeing their countries of origin talked about the unfair and undemocratic procedures followed by their countries' governments. They described authoritarian and domineering regimes, whose operations included corruption, unfair treatment, unlawful arrests, and killings.

One migrant disclosed:

I escaped from Algeria, because I have many problems, I almost die. There is not law. There is law, but for the people that don't have money, poor, there is not law. For people who have money, you can kill, you can steal, you can do anything without consequences.

One migrant from Iraq revealed:

They killed many many journalist. They killed many people. In secret. People come to street ask the government "we don't like this government we want to change it," they just bring soldiers and kill people. A few months ago, they killed 40 person from one place, by gun.

A Kurdish mother from Iran expressed her fear for her 7-year-old son's future. She explained that she fled Iran to ensure her son would grow up away from conflict and have more opportunities for a better future in a democratic state like Greece: "I know there is democracy [in Greece] ...and in EU."

3.4 | Impact of religion and cultural practices

A religious dimension was added by many migrants when describing their experiences in their countries of origin. Experiences of the Kurdish war and from conflict victims from Syria, Iran and Iraq are among these. Six participants described the problematic nature of a very thin line between the state and the Muslim religion, in that Islamic law did not only consist of religious rules that believers were instructed to follow, but it was the ultimate authority. Religious law was described as "challenging to follow" and "oppressive." They mentioned exclusion from society, imprisonment, and in some cases, even death for those who did not follow it. This was particularly difficult for those who professed a different religion from that of the state's majority or were not religious:

I was in the army. I was working in the navy; I served the army for two years. It's an Islamic country in Iran, as you know, they pray three times a day. For three months you can refuse and say I have to do other things, but for two years you can't. You have to join them. If you don't, they ask you, "why you don't join us?" That's a problem and you have to say. If you say "I don't believe what you believe" the make a problem of you, especially when you are in the army.

However, participants who followed state religion also felt oppressed. Muslim participants claimed they were compelled to dress in a certain way or hide their sexual orientation to avoid criminalization, as a participant from Algeria described:

Last time was July 2018, me and my friend we are trying to make an event for young people out of the cities. So I invited my friends to go to the dessert and make a party and hear music and alcohol. After that, the government in Iran, knows

about us and tries to arrest us. Alcohol is illegal, boys in relationship are illegal. All these things are illegal. This happened, and the government knows about me.

3.5 | Additional reasons

In addition, some participants were also afraid of social stigma. For these, if they disobeyed the law, they also had to face social exclusion from their communities and their families. Some described situations in which they felt isolated because they were considered “sinners,” “estranged from god,” and set a “bad example” for the rest of the community. They were also forsaken by family members because their actions had brought shame to the whole family.

A migrant from Ghana mentioned the strict religious rules in her country that compelled her to seek asylum in Greece:

They have a problem with me because I was married with an old man, they forced me to marry him, I was very young at that time... At that time, I was married when I was 14 years and my husband was 74 years... the community found out that I'm in love with someone else and that was the problem for me, because in Muslim [community] if they find you are married and you have an affair, they have to stone you to death. In Muslim that's the religion. Even if I sits in my country, I'm not going to be happy because I'll be afraid and ashamed. Because I just bring the family shame, because Muslin think that thing. It's not my choice to do that.

Another migrant shared the consequences she would have to face in her country due to her sexual orientation:

I have a problem in Algeria, with my family and police. Not big problem. I am lesbian, I like the girls, but Algeria, Muslim man. I like girls, I don't like men, no men. If my family see me with a girlfriend is a problem, and in Algeria if police see this, it's three years in prison. If they see me with a girl I will have a problem.

Two participants mentioned their reunification with family and friends as reasons for moving. A migrant from Algeria who had a daughter in England explained that migrating to Greece and obtaining refugee status would help him travel to England and reunite with his daughter. An asylum seeker from Cameroon, who had to flee without his family, made efforts to settle in Greece, having in mind that he would reunite with his loved ones once he had a secure legal status. He believed refugee status would allow him to protect his family by bringing them to Greece.

In addition, participants in this research often talked about the difficulties of living in communities that promoted gender inequality and lacked universal human rights:

For example, you have to dress up every morning and go outside, but in Iran, you have to think what you should wear, because you can't wear whatever you want. They will ask you “this is a problem, this is a problem,” and you get a ticket. You have to wear the hijab. You have to wear long dress, don't use pants [trousers], tight pants, this stuff. These are basic things, and you can imagine how things go beyond that.

3.6 | Knowledge of law and rights

War and conflict, authoritarian politics, and strict religious laws led the refugees and asylum seekers who participated in this research to leave their countries, searching for peace, freedom,

and basic human and civil rights. Their aim was not, however, only to leave their countries, but they intentionally chose a specific destination to seek asylum: Greece. When asked why they chose this country as a destination, they said that it was because it was an EU member state and that this meant that it followed democratic ideals and would support asylum seekers' claims.

Some of the phrases heard repeatedly were, "here I can do whatever I want," "here I have freedom." However, when probed about what this meant, there were variations in their answers and gaps in their knowledge. For example, there was a lack of knowledge of where the constitutional principles and basic rights that they claimed to have in Greece derived from: "I suppose I do [have rights]. I know there is a framework, legislation that covers it [migrant/refugee rights]."

In fact, and perhaps unsurprisingly, their knowledge of rights was limited to asylum, freedom of speech, freedom of religion, and the right to work and reside in Greece.

Not too much, I know I have some of them [rights]. I know I can apply for residence for me. If you have a problem, the police will help you, and there are some organizations that help immigrants.

Participants had the understanding that Greece was obligated to accept them and process their claim for asylum under human rights law. As an illustration, one participant was expecting the border police to ask him why he wanted to enter this country. He knew that even though he was not a legal subject in Greece, he remained within an international legal framework and that, as a result, the Greek border police did not respect his right to seek asylum by not asking him for the right information:

There is a law, when you go to any country, they must ask you first "why are you here?," later they send you back. There is no asking anything, they don't ask "where are you from" or "what is your name," they don't ask for these things.

Participants understood their rights and the Greek legislation through experience rather than official sources, as their interactions with the police and other governmental authorities were limited. Some claimed that they were not informed about their rights upon their arrival in Greece and others that they were informed about their right to citizenship when they obtained their refugee status and their identification documents by governmental bodies, but not in detail:

Yes, I think, they say you have rights (...). Like, we are like Greek now, that's what they told me when I got my ID. They say they gave a paper and I have right to rent, I have right to buy, I'm like Greek person.

The majority claimed to trust the law, and all believed they were law-abiding individuals. They claimed to follow the law by trying to be "good," "not cause problems," and avoiding "troubles." They had developed a sense of assumed lawfulness based mostly on their earlier experiences and a general sense of legality that reflected these: "Of course, I am a law-abiding person. I want to follow the law, I was raised like that. It's the right thing to do."

Part of their legal knowledge was developed during their migration journey through contact with smugglers and peers. Participants paid large amounts of money to smugglers, reaching up to \$11,000 per person; if they got caught by the authorities and wanted to make a second or a third attempt to pass the border, they had to pay them again. Therefore, one of their biggest

concerns was not being considered refugees by the local authorities and, therefore, not being able to apply for asylum.

Some of the participants said that they had destroyed their passports and other identification documents before they arrived in Greece or that their documents were destroyed by smugglers who were transporting them so that they would be considered refugees and protected by the Greek authorities. One migrant shared:

They said [at the land border], “if you have passport, you are not refugee” so I destroyed my passport and I was considered refugee.

A few migrants confessed they had bought fake passports to enter Europe because they could not get a visa in their home countries. Another three disclosed that they had witnessed migrants purchasing fake identification papers or driving licenses from countries involved in a war to be considered refugees and secure their status in Greece:

People buy Syrian IDs and papers for driving license, so the Greek government will accept them as refugees from Syria. These people are from different countries. The translators from Syria can understand that they are lying and are not natives.

They were aware that they had done something illegal; however, they believed it was the only way to cross the border and ensure their safety:

It’s true, we cross the border, we break the law in Greece, but we need to do that... I was applying to get a visa to visit my daughter, I couldn’t get it, so what do I do? This is my daughter, I’m not just gonna give up, I’m not gonna stop look after her, I’m a human same as everybody, I’m a dad, I want to see my daughter. That’s why I broke the law in this country.

In addition, participants had different experiences depending on their entry routes into Greece. Those who crossed the Aegean Sea were rescued and helped by local authorities and NGOs, but those who crossed the land border claimed to have been denied entry to the country by the border police. Participants who used boats to enter Greece were helped by smugglers and usually managed to reach the islands on their first attempt. They either used false identification or were advised (and in some cases forced) by smugglers to destroy their identification documents to be considered refugees by Greek authorities. Other strategies adopted consisted of smugglers stopping the boats near the Greek islands’ coasts and waiting for rescue vessels to arrive so that they would be considered shipwrecked and the authorities would have to take them to safety onshore. According to participants, using smugglers and following their suggestions to enter Greece was common knowledge among those trying to leave Turkey.

4 | DISCUSSION

4.1 | Sources of knowledge and frames of reference

Migrants tend to use their home countries as a frame of reference for how they deal with the justice system in the countries of destination (e.g., Anitha, 2010, pp. 462–472; Burman & Chantler, 2009, p. 71; Earner, 2010, p. 33; Gill, 2004, p. 189; Graca, 2017; Menjivar & Salcido, 2002, pp. 903–911; Nielsen, 2000, p. 1085; Rocha-Trindade, 2006, p. 9; Vidales, 2010, p. 539). This does not mean that they will necessarily replicate the same dynamic and, in fact,

may even adopt an opposite approach due to different expectations; the point is that previous experiences had an influence on their expectations of the justice system in the host country.

Participants in this study were driven to leave their home countries primarily to escape war and conflict, and due to political, religious and cultural persecution. They were highly motivated to enter Greece, either to establish themselves in this country or as a gateway to other EU countries. Their experiences in their countries of origin informed their decision-making and expectations of the law. These expectations were formed almost in opposition to what they felt was the restrictive, unfair, and overbearing power of the law (governmental, religious, and cultural) in their countries of origin; by choosing an EU country, they expected to encounter the freedom and safety they could not have at home. Moreover, they expected to access the same rights as any other citizens of these countries, such as employment, freedom of expression, and access to housing. These experiences also had an essential role in the formation of their identities as refugees and asylum seekers, the basis upon which they expect to be treated fairly and with dignity in the EU. To support this, some brought videos and photographic evidence of the destruction surrounding them in their home countries. These were not only reminders of a life they left behind but also evidence to support their status upon entering another country.

Their knowledge and expectations were also informed by contact with other refugees and asylum seekers, as well as smugglers and, to a lesser extent, state officials (primarily the police) and NGOs. These contacts helped to navigate the more pragmatic aspects of the complex migration policy and solidify an identity that supported their actions, including those that went against state law. It was as a result of such information and experiences that they destroyed their passports or purchased documents from other countries to maximize the chances that they would be perceived as refugees by the state authorities upon entering Greece. Contact with peers, smugglers, and state authorities shaping refugee and asylum seekers' behavior is not an unusual occurrence and has been identified in various literature (e.g., Chakraborty et al., 2015; Haddeland, 2021; Lendaro & Roland, 2022; Papadopoulou, 2004; Singer, 2019). Indeed, it is consistent with the view that legal consciousness is the product of the interplay between structural and individual factors, schemas, and resources, which will be discussed in more detail in the following sections.

It is also consistent with the role that narratives and storytelling may have in informing reactions to the law, as proposed by Ewick and Silbey (1998), who see in it the potential for counter-hegemonic discourse and, therefore, a form of resistance. In a similar way that the actions and narratives of migrant women who experience domestic abuse inform the reactions of others in their communities in the host country (Graca, 2021), refugees and asylum seekers are "instructed" by those they come in contact with on the best ways of navigating the system to their advantage, even if this means disregarding state law to do so. This knowledge is acquired by research done previously to their journey and interaction with smugglers and other refugees and asylum seekers. The power of narratives and storytelling, regardless of how accurate they are, has also been identified in forming one's identity Engel and Munger (2007) in relation to Americans with disabilities and by Regev-Messalem (2014) on welfare recipients in Israel. Indeed, the importance of rumor in developing refugees' and asylum seekers' sense of legality and expectations in the host countries was found by Papadopoulou (2004) in Greece, Lendaro and Roland (2022) in the French–UK border, Chakraborty et al. (2015) in Germany, Singer (2019) in the United Kingdom, and Haddeland (2021) in Norway. As long as they see themselves as acting under the guise of international human rights law, participants believe they are no less law-abiding by acting in what could be construed as a deceitful way than if respecting domestic law. Forming an identity as rights-bearers under international humanitarian law is a crucial part of individuals' attitudes toward the law in Greece.

4.2 | “International law” as a schema

Participants’ goal was to enter the EU and apply for asylum in Greece or follow the Balkan route to northern EU states and apply for asylum there. When they fled their homes, they left behind both material and non-material belongings, such as money, homes, documents, families, and personal networks. Importantly, they left behind their citizenship and associated rights. Their goal was to re-obtain these by entering an EU state and applying for asylum. However, obtaining a protected legal status and asserting rights requires some legal knowledge (Hernandez, 2010, p. 111), and EU migration policies have been described as complex, a mystery (Chakraborty et al., 2015, p. 15), irrational and akin to a lottery (Singer, 2019, p. 10).

During the interviews, participants demonstrated an understanding of “international human rights” and the EU asylum policies, even if not in much detail. They knew they were eligible for rights and that EU states were obligated to provide them refuge and to assess their eligibility for asylum as a consequence. Their goal was to stay within the boundaries of the law, moving from one jurisdiction to another (often describing themselves as “law-abiding”). They did not want to leave behind the legality awarded by the citizenship they possessed in their home countries either. However, they were prepared to do so as a matter of necessity, to be able to lawfully assert their right to asylum in the EU.

This movement from one jurisdiction to another was not easy; from the moment they left their respective countries to the moment they registered as asylum seekers in Greece, they were not citizens of any state or subjects to any jurisdiction. Indeed, Singer’s respondents equated a similar situation as being “in limbo” (Singer, 2019, p. 27). Nonetheless, this was not a complete abandonment of the law (or turning their backs on it; Hertogh, 2018, pp. 14–15) as, firstly, the abandonment of their national legal status was meant to be temporary, until this was regained under a different one, and secondly, the journey from one national legal identity to another was framed within a third legal order, that of international human rights.

There is clear evidence that participants retained faith in international law as a tool underpinning their efforts to find a safer future. Indeed, their legal consciousness is manifested through an international lens, as opposed to being presented in a national form. This resonates with the work of Hadderland (2021, p. 655), whose participants reached Norway with the expectation that their human rights would be protected under this country’s legal system, as well as the work of Holzer (2013, p. 839), whose participants saw themselves as rights bearers under international law, which should give them protection and access to civil rights in Ghana.

While “in limbo,” international law, therefore, acquires the role of primary schema from which refugees and asylum seekers draw legitimacy for their actions. These actions are necessarily tied to the limited resources they have and the outcome may be to undertake action that goes against state law, but which is in line with the international framework against which they assess their circumstances. Although participants find themselves in situations where the Greek state’s power limits their movement and prohibits them from claiming rights (Ewick & Silbey, 1998, p. 184), they embrace the (human rights international) law to assert their stance and acquire access to the rights they believe they are entitled to. As such, destroying a passport does not make them see themselves as not law-abiding; it is the course of action needed to ensure that their human rights are protected.

Participants risked their lives at sea by boarding overcrowded boats, faced pushbacks and police brutality at the borders, spent money to pay smugglers, and destroyed their identification papers. In their attempts to be part of a state jurisdiction that would recognize their rights, they found elusive alternative ways to accomplish their goal. Although they may be resisting the hegemonic power of the state and could have been considered to be “against the law,” they do not reject migration laws; instead, they try to use their circumstances and resourcefulness to their advantage. In fact, they remain very much within the borders of the law (only this is

international rather than state law), in what can be described as akin to the form of legal consciousness “with the law.”

4.3 | The “refugee” identity

As demonstrated, participants’ legal consciousness was framed by an understanding of international human rights law tied to expectations of the EU’s migratory policy. These provided them with the basis upon which to develop their identities as right-bearers, which allowed them to navigate the Greek legal system and informed their actions therein.

Identity is a process that develops throughout an individual’s life and changes as they move from one society to another (Hamburger, 2018, p. 70). Forming a “refugee” identity is a complex process generated by internal beliefs, values, and cultural norms, as well as by external factors such as the migration policies, socioeconomic conditions and cultural norms (Burnett, 2013). The migration journey, the waiting period in the refugee centers until a decision is made, and the period after receiving a refugee status are stages in the (re)formation of this identity (Chtouris & Zissi, 2018; Papastergiadis, 2006; Strang & Quinn, 2019). Upon arriving in the host country, migrants try to rebuild these fragmented identities (Colic-Peisker & Walker, 2003, p. 338). As Hultin et al. (2022, p. 670) put it, after refugees have lost their homes, jobs, families, friends, culture, traditions, and legal status, they are not only trying to survive but also striving to be recognized to develop a sense that they matter.

During this identity reformation, the law appears to play a significant role, as the refugees interviewed and observed in Greece used the legal status of “refugee” to gain entry into this country and secure the protections this awarded them as part of an EU state. Participants left their home countries mainly to escape war and due to civil, political, cultural, and religious oppression. These impinged not only on their safety but their ability to fully express themselves as individuals or part of a community, be it because they had different political views from the state, for professing a different religion than the majority, for coming from a particular ethnic background, having a particular sexual orientation that was not deemed socially acceptable or restrictions of mobility and dress tied to their gender. They left behind parts of their lives that were inextricably linked to their identity; upon arriving in Greece, they had to rebuild these parts of their identity in a new, unfamiliar environment. They could no longer identify with the social positions, categories, and networks they had in their countries of origin; neither could they identify with the power, status and prestige incorporated into other positions and categories. In cases where people are forcibly removed from their environment, the trauma of losing their social and cultural environment and the extreme situations they experienced as refugees need to be added to the equation, and consequently, individuals experience a threat to their identities in the home country prior to migration that continues throughout their settlement in the host country (Hamburger, 2018, p. 70). The “refugee” label they were seeking not only serves states’ and international agencies’ need to manage migration but also helps them reform their identities. They took up the “refugee” identity and held it as a banner, a key that would grant them access to Greece. By taking up the identity of a refugee, the participants’ narratives and perceptions of the world reflected this new positioning (Davies & Harré, 1990, p. 46), more specifically, as individuals who are eligible for help because they are subjects of international human rights law.

4.4 | Resisting or gaming the law?

Participants’ understanding of human rights was tied to their views of their own identities as refugees and asylum seekers. They portrayed themselves as law-abiding, as respecting the law was

“the right thing to do”; however, when their rights-consciousness collided with what they saw as the states’ attempts to deny them their rights, they found alternative ways to assert them. Those who were denied entry at the borders used other ways to enter Greece through loopholes and deceptions. The label of “refugee” was part of the participants’ negotiations for their social positions in Greece. The Greek State had, effectively, the power to decide who would be considered a refugee, who would be protected and who would not be protected. Having in mind the dualistic conception of refugees in contemporary public discourses—being imagined as either “genuine” refugees who deserve help or “bogus” ones who are dangerous and want to take advantage of the system (Griffiths, 2015, p. 472)—the negotiation of identity becomes challenging and crucial to their survival. It shows the ability to act in response to the state’s domination and overcome the movement constraints placed upon them. Negotiating their “refugee” identity granted them access to Greece and a chance for protection. After entering the country, they claimed to have applied for asylum, presenting their real-life stories.

Although using deceit to overcome difficulties to enter Greece might be perceived as a form of resistance, usually associated with those described as “against the law” (Ewick & Silbey, 1998, pp. 184–186), participants did not seem to find migration laws unfair or the system volatile or oppressive, as was the case in populations such as those studied by Lendaro and Roland (2022), whose negative contact with the migration system in the French–UK border led to avoiding engagement with institutional powers (Lendaro & Roland, 2022, pp. 11–12).

Participants did not resist the law to enter Greece, rather, they collided with the Greek state in an attempt to negotiate their identity and secure the benefits this identity entailed. They effectively resisted the power of state agents in defining their identity but did so by making use of the legal tools available, that is, their knowledge of human rights and migratory EU laws. Having the knowledge that they were subjects of international human rights and eligible for protection, their collision with the Greek state was a fight for recognition, a negotiation of their identity, rather than a challenge of the existing system. In fact, they made use of the system to secure the protections they wanted, in a game-like way, as would respondents “with the law.” It could be argued that in doing so, they are perpetuating the overarching hegemonic discourse that the state indeed has the power to determine who is entitled to international protection and who is not. This does not change the fact that they are using the knowledge they have and appropriating the structures of power as tools to their own advantage, much like Hull’s participants’ appropriations of terminology related to relationships by same-sex couples (Hull, 2003, p. 632), Levine and Mellema’s participants’ use of incarceration to their advantage (Levine & Mellema, 2001, p. 183), or Schwenken’s (2013) participants’ use of transnational knowledge to advance their employment status. Even though they may be resisting the power of state actors in determining their status, they are firmly “with” the law.

5 | CONCLUSION

The refugees and asylum seekers in this research left their countries influenced by two sets of motivating factors: their safety and wellbeing and the opportunities awarded by the country of destination. Conflict, religious and political repression, and lack of civil and human rights are the most prominent influencing factors for their departure. In doing so, they had to learn to navigate the EU migration system and their encounters with the Greek state. They learned to do so through contact with peers, people smugglers, law enforcement officials, and staff at NGOs. The combination of these factors, as well as their experiences in their countries of origin, shaped their legal consciousness and the way they responded to the challenges they faced along the way. Participants took up the identity of the “refugee,” a label that framed their legal consciousness throughout their migration journey and allowed them to perceive themselves as eligible for protection under humanitarian international and EU laws.

Migration is a trade-off. Relocating to an EU State means that refugees and asylum seekers can escape generalized violence in their home countries and enjoy rights and protections somewhere else. However, their transition from one jurisdiction to another is not without a cost, as they must leave behind their citizenship, status, and rights and have to rebuild their identities in the host country. Choosing an EU state as a destination demonstrates that participants had some awareness of international human rights law and EU asylum policies, both of which framed their legal consciousness. In fact, all participants understood that EU states followed democratic ideals and had policies in place to protect those seeking refuge and asylum. They were, therefore, aware of the significance of their status as refugees and asylum seekers in this context; they expected to be protected and eligible for financial and social support, as well as have the rights to work and rent a property.

Interaction with a legal system allows individuals to reform their identities and develop rights-based selves (Merry, 2003). However, the participants in this research migrated from countries that did not recognize fundamental human and civil rights. Thus, they did not have the opportunity to interact with EU and international human rights policies and legislation to develop rights-based selves. Their knowledge of these policies was developed through their networks, contact with smugglers, and staff at NGOs. In addition, technological advancements, such as the internet and smartphones, have facilitated access to information, which means that migrants usually gather information on their chosen destination country a few months before departing (Lif, 2016). In effect, participants not only used their mobile devices as a form of accessing information but also as repositories of evidence of the destruction they escaped, thus as tools to support their claimed status as refugees.

The influx of migrants over the last decade, particularly during its peak in 2015, challenged the EU's response to migration. As a result, the EU systems appeared inadequate to handle the migrant arrivals (Lavenex, 2018, p. 1196), with asylum systems collapsing in EU points of entrance, such as Italy and Greece (Menendez, 2016, p. 388). In addition, terrorist attacks in European cities during this period associated migration with security threats (Lazaridis & Wadia, 2015), which led to the prioritization of security over the protection of migrants and disguised "pushback" operations into acts of protection from smugglers and traffickers of migrants. Consequently, the entrance into the EU became even more difficult.

In this context, many participants entered Greece with the help of smugglers, who would destroy their identification documents or advise them to do so themselves to be considered refugees. The destruction of identification papers was aimed at negotiating their identities with the state and securing their social positions. Typically, the power dynamics in that situation would have the subordinate power (the participants) asking for their recognition by the dominant power (the state). However, participants' refugee identity was framed within international legality, which empowered them to resist the restrictions to their movement imposed by the Greek state. They did not wait for the state to recognize them as refugees because they perceived their refugee identity as being recognized by international human rights. They, therefore, both resisted state power and acted "with the law" using it as a tool to achieve their goals, much like the populations studied by Hull (2003) or Levine and Mellema (2001). They were certainly not oblivious or "alienated" from the law (Hertogh, 2018), which is consistent with a population that must engage with it to seek refuge, find accommodation, or work (Güdük & Desmet, 2022, p. 220). Participants did not reject the law; they used it to their advantage; they embraced international human rights, became their "ward," and used it as a way of claiming rights (as in Holzer, 2013).

The EU is known for its values that promote freedom, security, and justice (European Union, 2022) and its policies that protect and promote human rights (European Union, 2022). However, the EU's attempts to protect itself from irregular migration, terrorism, and organized crime (Stambol, 2019, p. 294) led to stricter border security, criminalization, and militarization practices, which stand against its ideals of peace, democracy, and human rights (Stambol, 2019, p. 294). The EU strategy to control irregular migration had humanitarian motives but militarized

manifestations. Militarized operations aimed to put a stop to organized criminal activities of smugglers and human traffickers were meant to ensure the safety of migrants and protect the EU from terrorists (Garelli & Tazzioli, 2018, p. 695). However, the current research findings suggest a more nuanced depiction of the situation is warranted. The participants in this research did not vilify the smugglers or mention being exploited by them in their narrations. On the contrary, they described their exchanges with smugglers as transactional, a typical exchange of money for service, which is consistent with the literature on the subject (Achilli, 2018; Icduygu, 2004). In addition, a few migrants mentioned being grateful for their assistance and assisting others in their journeys.

Most individuals do not usually consciously experience international law in everyday life; however, this is not the case for the refugees and asylum seekers who participated in this research. Indeed, the current research findings demonstrate that legal consciousness can be framed by international law and individuals' experiences. Participants left their homes, reformed their identities, risked their lives, and demanded access to safety, all based on their (correct or incorrect) perceptions of human rights law and EU migration policy. They assumed the identity of refugees and asylum seekers as a temporary means to do so, not because they disagreed with the law but because this was the best way of making use of the resources they possessed to achieve their goals. Despite their vulnerabilities (and possibly because of them), they resisted the power of state agents in defining their right to access protection by invoking "international law" and used loopholes and sometimes deception to deploy humanitarian and migration laws in an almost game-like fashion. Their actions are a result of a combination of experiences, many of them harrowing, both in the country of origin and in Greece; they reflect a re-assertion of their humanity and self-worth by using the power of the law to achieve a best possible positive outcome.

AUTHOR CONTRIBUTIONS

Sofia Graca: Conceptualization, writing – original draft; writing – review and editing, methodology, formal analysis (equal). **Violeta Kapageorgiadou:** Conceptualization, writing – original draft; writing – review and editing, methodology, formal analysis (equal); investigation, project administration (lead).

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DATA AVAILABILITY STATEMENT

The data that support the findings of this study are available on request from the corresponding author. The data are not publicly available due to privacy or ethical restrictions.

ORCID

Sofia Graca  <https://orcid.org/0000-0003-4728-5317>

Violeta Kapageorgiadou  <https://orcid.org/0009-0007-4667-1140>

ENDNOTE

¹ For an in-depth assessment of the evolution and trends in the study of legal consciousness of migrants, published in English, see Güdük and Desmet (2022) and Miezsankiené (2020).

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AUTHOR BIOGRAPHIES

Sofia Graca is Principal Lecturer at Canterbury Christ Church University. Her research interests lie in the fields of migration, vulnerability and legal consciousness. She is interested on how migrants use the resources available to them and adapt their behavior in the country of destination.

Violeta Kapageorgiadou is a research assistant at Canterbury Christ Church University. She received a Bachelor's degree in Forensic Investigation, a master's degree in Criminology and a PhD in Criminal Justice from Canterbury Christ Church University. Her research interests are: hate crimes, migrants' rights, EU asylum rights, legal consciousness, and climate change and crime.

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