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A New Legal Settlement Programme for Immigrants in Spain: Examining National Pathways since its Implementation in 2006

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Abstract

In 2005, the Spanish Government decided to carry out profound changes in the legislation on immigration to regularise illegal migration and after experiencing one of the most significant booms in migration in recent European history. The number of new migrants has risen from around 1 million in the year 2000 to over 5,5 million at the beginning of 2009, thus changing the proportion of foreign-born over the total population from 3 to 12 per cent. After the last extraordinary amnesty held in 2005, which added 578,000 legal migrants in Spain, a new settlement programme to tackle illegal immigration was launched. The programme, which allows access to legal status to migrants through social and labour channels, is managed by Provincial Sub-delegate's Offices of the Spanish Government. The aim of this paper is to analyse different pathways of non-EU nationals who took part in the extraordinary regularisation programme in 2005 by taking into account their sociodemographic characteristics such as nationality, age, sex and type of work and/or residence permit from January 2006 to December 2009.

Introduction

The population of foreign-born migrants in Spain has risen from 1 to 5 million between 2000 and 2008, thus changing the proportion of foreign-born over the total population from 3 to 12 per cent. Such a rapid increase has been explained by international migration inflows, originally dominated by a strong demand for immigrant labour for low-skilled jobs in an unprecedented period of job creation and sustained economic growth. Whilst international migrants from other EU countries are allowed to work in Spain legally after the Maastricht Treaty in 1993 and more broadly after the Schengen pact in 1995, workers from non-EU countries require a work permit, although irregular immigration has also been significant with non-nationals who enter illegally or having entered legally they have overstayed.

Within this context, the role of extraordinary regularization programs granting legal status to non-nationals who are in breach of national immigration rules has not only been fundamental as a strategy by the state to re-establish a formal regularity in the labour market (Baldwin-Edwards and Kraler, 2009) but also to transform the demographic and ethnic composition of the population and to make statistics of non-nationals more visible and accessible. Spain's three previous extraordinary regularization programs granted legal status to over one million immigrants overall (200,000 in 2000, 230,000 in 2001 and 578,000 in 2005). However, these have proved insufficient to manage Spain's increasingly complex irregular immigration. In 2004 a new immigration legislation was implemented, which included the 2005 extraordinary regularisation program, as well as a new approach based on the expansion of flexible channels for economic migration and settlement of new migrants (Arango and Jachimowicz, 2005). The new legislation on immigration included two mechanisms known as labour and social attachments as the only channels to qualify for legal status for those who entered the country without inspection or overstayed a tourist visa. These mechanisms can be briefly described as follows:

- 1) Labour attachment. It applies to non-nationals who are illegally residing in the country but can prove the existence of a labour relationship with an employer of at least one-year duration.
- 2) Social attachment. It applies to non-nationals who are illegally residing in the country but can provide a work contract of at least one-year duration when the application is submitted, and either family links in Spain (spouse or civil partner, direct descendants or direct relatives in the ascending line) or the establishment of social links within the local community.

These mechanisms only apply to those who have lived in Spain for a period of at least three years and have no criminal records (both in Spain and in the country of origin).

For the first time, this paper shows the benefit of using available administrative data for the province of Barcelona to evaluate policy implementation on immigration. The importance of this area *per se* was reflected in the 2005 regularisation program, which allowed more than 80,000 people to obtain legal status (14 per cent over the total population regularised in Spain).

Following previous research in the field of undocumented migration (Heckmann, 2004; Jasso *et al*, 2008; Massey and Capoferro, 2004), this paper develops a longitudinal framework to analyse the effect of the new legislation on immigration after the 2005 regularisation in the Province of Barcelona. The specific objectives of this research are threefold:

- 1) To evaluate the existing legislation on immigration based on the expansion of flexible channels for economic migration and settlement of new migrants; and,
- 2) To provide an evaluative case study of the trajectories of new migrants with an illegal experience by nationalities, with information on their main sociodemographic characteristics.
- 3) To evaluate the impact of the economic crisis in the legal status of migrants.

Thus, the main research questions we address in this study are: 1) *What are the main trajectories of new migrants with an illegal experience in the province of Barcelona after the 2005 regularisation?* 2) *Do non-nationals with a previous illegal experience have a specific sociodemographic profile?* 3) *Can we distinguish different national strategies in the settlement process?*

Data and Methods

As part of a joint collaboration between the Government Sub-delegate's Office in the province of Barcelona and the Centre d'Estudis Demogràfics in the Universitat Autònoma de Barcelona, this case study uses an 'original' administrative-based dataset under special licence. It contains more than 2 million entries of individual data for non-nationals with temporary work and residence status recorded between January 2004 and December 2009 in the province of Barcelona. One of the special features of the dataset that makes it particularly relevant is that it contains individual data for those non-nationals who were granted legal status through the 2005 regularisation (81.398 people in the area of study). The variables of interest included in the dataset are as follows: date of entry, date of expiration, nationality, date of birth, country of birth, sex and type of contract.

Methodologically, the research applies a longitudinal framework to analyse the pathway of individuals from one state (illegal) to another state (legal) and *vice versa*. The 2005 regularisation is taken as the beginning of time (January 2006) and therefore when everyone in the population of study occupies one state (legal). For this purpose, those individuals who were granted legal status (81.398 in total) are followed on a monthly basis. In order to study the transition from illegal to legal and *vice versa*, a life table has been created which includes, for each month of the observation period, the number of non-nationals with legal status at the beginning of time (January 2006), the number who transferred to an illegal status during the month, and the number who were censored at the end of the observation period. With this information it has been computed the proportion of non-nationals with legal status at the beginning of the month who entered illegality during the month (hazard function), and the proportion of all non-nationals still with legal status at the end of the month (survivor function). Analyses have been

carried out for the population as a whole as well as separately for different groups according to geographical origin.

Expected findings

- 1) First, common legal or illegal experiences are likely to signal common elements too. Non-nationals with previous illegal experience are expected to differ substantially from non-nationals with no previous illegal experience by sociodemographic characteristics such as age, sex and nationality.
- 2) Second, the longitudinal analysis of pathways out of illegality and *vice versa* in the province of Barcelona is likely to reflect the timing of arrival of different groups, with recent migrants or nationalities perhaps being more likely to be residing illegally.
- 3) Third, non-nationals legally residing in the country could transfer to an illegal status if their work permits are not renewed and the state unemployment compensations have come to an end. It is expected that a number of migrants will fall back out status as a result of the economic recession.

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