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Trinidad L. Vicente

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Undocumented migrants: A social and political issue in Spain

Trinidad L. Vicente
University of Deusto, Bilbao - Spain

This presentation illustrates, to a large extent, the design of the research project entitled “Illegality as a social and political problem in Spain.” This project is being developed by the Pedro Arrupe Institute for Human Rights, located at the University of Deusto (Bilbao, Spain).

The objective of this study is an empirical attempt to describe how the issue of illegality arises in Spain. Through this research project, we will try to determine the reality the collective of “undocumented immigrants” residing in our country, as well as their future perspectives.

THE ISSUE OF ILLEGALITY

The issue of illegality has its own sociological complexity. It is constructed of three complementary levels which, while not identical, overlap.

- The first level is institutional. This refers to the institutional marginalization that legally excludes undocumented immigrants from the framework of rights and privileges inherent in the possession of the title of Spanish citizenship.
- The second level is social. In some cases it has its origin in the absolute lack of legal protection, with its potential for abuse on the part of “legals,” in all spheres of everyday social coexistence (work contract conditions, sanitary protection, access to housing and so on). In other cases, it originates in the conditions of social marginality due to ethnic, social and political differences.
- The third level is individual. It arises from the cultural disadvantage suffered by clandestine immigrants as a result of their ignorance of, or difficulty in acquiring the customs, language and education that would greatly enhance their daily coexistence.

This situation prevents them from closing the gap between themselves and the legal social body, even when they have been able to avoid or overcome the institutional and social levels.

The existence of immigrants in an “illegal” situation constitutes a problem of social justice for every citizen, as well as a collective challenge to the ideals officially advocated by Spanish society — those of unconditional acceptance of the universal democracy.

WHO IS “AN ILLEGAL”

The term “illegal,” although apparently simple, contains great complexity, as much from the point of view of its definition and juridical status, as from the content of its social reality. In schematic terms, there are six different types of basic juridical situations of illegality,¹ which, in turn, give rise to many more basic types of undocumented immigrants.

1. - Illegal entry. The circumstance of the foreign person who remains in an anomalous situation from the moment he or she comes into the country. This is the case, for example, of those immigrants who arrive in “pateras”² on the Andalusian coast.
2. - Expiration of limited stay. The situation of the foreign person who enters the country legally as a tourist, but when the visa expires, he or she remains on, thus becoming an “irregular.”
3. - Expiration and/or dismissal of renewal of a resident’s or similar type permit. The foreign person who holds a resident or work permit, does not renew it, or the renewal is denied.
4. - Labor irregularity. The foreign person with a resident, student or similar type visa but without a work permit, who works without authorization in the receiving country. In this case, the irregularity is based on the prohibited labour activity.

¹ This typology has been elaborated by Jose M. Huidobro and Eduardo Ruiz

² A patera is a very small and frail boat that is used to cruise the 15 kilometers that separate the Spanish coast from Africa. These boats, often overloaded, usually cruise the Straits of Gibraltar, with a high risk to the life of the occupants. They very often never reach the Spanish coast.

5. - Receipt of an expulsion order, which is ignored. The foreign person who, after an expulsion order has been decreed, remains within Spanish territory. This is an aggravated irregularity because the regularization of the situation requires the previous revocation of the expulsion order.

6. - Refusal of political asylum or loss of such status. The foreign person loses his or her refugee status or, after seeking political asylum, such status is denied to them, but they remain within Spanish borders.

As sociologists, we do not necessarily have the competence to develop a juridical criticism of these six different basic types of illegality. Still, we can try to analyze the social effects of their application. This will be the principal aim of this short paper.

HOW MANY UNDOCUMENTED IMMIGRANTS ARE THERE IN SPAIN?

The number of foreign people who are not registered in the official statistics because they are without legal status is a recurrent polemic. It is subject to very different appraisals. For example, according to the trade union UGT, there are about 800,000 undocumented immigrants in Spain. Meanwhile, the catholic non-governmental organization CARITAS estimates there to be around 300,000. Both figures, however, are exaggerated according to Antonio Izquierdo's.³ He believes there are not more than 150,000 illegal immigrants in Spain. Other sources, such as the Permanent Observatory for Migrations, compute this figure at around 60,000.

The number of these people, commonly referred to as “illegals,” escapes precise statistical and empirical registration. Every evaluation is very much influenced by the sources of information that are used. Still, the Spanish population is becoming aware that the size of this group of immigrants is growing along with the attendant tension and problems within the receiving society.

³ Antonio Izquierdo is a consultant on Immigration and Social Integration for the European Union Commission. He is also a writer of the SOPEMI report for the Cooperation and Economic Development Organization.

Now, when considering the statistical data related to undocumented immigrants, we should also keep in mind two key facts:

- On the one hand, the first regularization process took place in Spain in 1885 at the same time the Immigration Law was passed. Since 1991, there have been various processes that have allowed, in one way or another, an important portion of the undocumented immigrants to acquire a resident's permit. The 1991 regularization process was prolonged with special instructions for the renewal of permits in 1992. Likewise, there were different authorization quotas for foreign workers in 1993, 1994, 1995 and 1997. Immigration authorities have been attempting to find the channels for the flow of workers from outside the Spanish borders, although they have also been regularizing the situation of those undocumented immigrants already residing in Spain. In addition, there was another regularization process in 1996 for previous holders of permits (more restrictive, therefore).
- Even in the case where immigrants enjoy legal permission to reside in Spain, their situation is always conditional on the renewal, either annually or every five years, of the work permit. That is to say, they live within an institutionalized situation of temporary residence and work. Accordingly, it is essential to emphasize another key fact: in 1991, a total of 110,113 people were regularized, while 18,015 requests were refused. Later in the same year, another 6,000 requests for renewal from immigrants who already had a permit were also refused. And 22,000 immigrants did not even ask for an appointment to renew their legal condition. Thus, from the 128,000 regularization requests, there remained only 82,000 as legal workers (64%) by the end of 1993. One-quarter of these legalized people remained undocumented. This obviously is an unsatisfactory situation for people in charge of immigration policy, as it points out that the legislative norms and political practices that have been adopted are not capable of establishing an orderly and rational development of the immigration phenomena. On the contrary, their results are very efficiently placing all these people into ghettos.

UNDOCUMENTED IMMIGRANT'S FEATURES

Obtaining data or details on the demographic composition of undocumented immigrants carries with it great difficulties, because, as in the case of actual numbers, the hidden nature of their existence prevents accurate registration. This is why one of the most important resources related to undocumented immigrants is the regularization process. From the analysis of the collective of immigrants who have applied to one of the different regularization campaigns, it is possible to infer some main characteristics of the population residing without legal permission within Spain.

In this respect, we can start by pointing out that, to a large extent, the clandestine immigrants constitute a group of young people between 20 and 40 years old. This collective is composed of men mainly, although it has been observed that there is a growing presence of women among them. Most of these immigrants are still single. It seems logical to expect that young people, without familial responsibilities, are more prepared to emigrate than older married people are. They leave their countries only when they consider their situation untenable. On the other hand, the limited presence of children and elderly people among the undocumented immigrants in Spain illustrates that the family reunification process is not yet very significant.

With regard to the country of origin, it appears that one-third of the undocumented immigrants are from Northern Africa countries, particularly from Morocco and Algeria. The second biggest group consists of those immigrants coming from different Latin American countries (mainly from Ecuador, Colombia, Peru and Brazil). This group is about one-fifth of the clandestine immigrants. The third main group consists of those foreigners coming from East European countries, from Poland and Rumania, to be more precise. And last among the most significant groups is the Asian people (Chinese being the great majority). They represent about 12% of the entire collective.

This distribution of the illegal immigrants by country of origin coincides with that of the main groups of immigrants residing in Spain with legal permission. This is not to be unexpected if we keep in mind that for many people unlawful entry is a common

occurrence in our country, even though they will try to take any opportunity available to legalize their stay in Spain.

Another coincidence with legal immigration is the tendency towards the “femininity” of the flows, as mentioned above. Women represent a clear majority among some immigrant nationalities. For example, three-quarters of the immigrants from the Dominican Republic and the Cape Verde Islands are women.

PARTICIPATION IN THE LABOUR MARKET⁴

The closing-gate policy will not stop the immigration flows towards Spain, nor will it mitigate the consequent confusion and alarm on the part of the Spanish population. Similarly, the legal prohibition to work will not persuade them from trying to get a paid job, which they need in order to stay and to survive in Spain.

Thus, among the main occupations of undocumented immigrants are those centered in the service sector: waiters, maids, street vendors, etc. Some of these immigrants, however, will find a job within the primary sector (most of which will be agricultural jobs of a seasonal nature), or in the secondary sector (mainly around the construction business). These jobs, traditionally filled by clandestine immigrants, are characterized by their part-time, occasional nature. Even in the case where an undocumented immigrant can find a job, he or she will not enjoy any kind of contract or social protection, or rights (health assistant, unemployment subsidies, unionization or juridical defence). Generally, these immigrants will receive less money than legal workers in the same job and/or they will be obliged to work longer hours.

While it is true that many legal immigrant workers in our country also experience the situation of instability and unsatisfactory working conditions, they are not as vulnerable as are the illegal immigrants. Working legally allows one to access the necessary mechanisms to initiate legal actions or to make formal complaints, although this does not mean that it is easy to put them into practice.

⁴ The following preliminary information was obtained from one hundred interviews held with immigrants residing without legal permit in different places in Spain. The interviews were completed during the first semester of 1998.

Moreover, if we keep in mind that undocumented immigrants see the obtaining of a work contract as the first necessary step to get the legal documents to remain in the country, they will hardly be dissuaded from seeking a job. On the contrary, these immigrants will tend to accept all kinds of labour abuse and exploitation in search of a better future. In this context, the question of whether or not to accept the work contract offered by “agents” of criminal organizations to illegals in exchange for a “reasonable” price becomes yet another problem to be addressed. Unfortunately, these intermediaries are often an unavoidable figure between the immigrant and the employer. Because of their “measures” to provide the worker with his or her payment, they always take an important part of the already very poor salary,

Despite the prohibitions, difficulties and hard conditions that clandestine immigrants suffer, they will not easily give up in their determination to get a job. Rather, the laws prohibiting “illegals” to work do not do anything but make it more difficult to access the minimum resources for survival. At the same time, it supplies the groundwork for exploitation, corruption and even criminal behaviour.

PARTICIPATION IN SOCIAL LIFE

To the restrictions in interpersonal relationships that the clandestine immigrant group experiences, and to their difficulty in accessing a job that warrants them a minimum standard of living, we add the blocking of institutional channels in the participation of social life.

The undocumented immigrant is trapped between two irreconcilable needs. On the one hand, the immigrant without legal permission must find the resources to survive within the receiving society and, on the other hand, he or she must remain as “invisible” as possible in order to avoid being arrested and expelled from the country. Thus, these immigrants will tend to reduce their interactions with nationals to a minimum in so that any incident, even a petty one, does not bring to light their clandestine migratory situation.

The present immigration policy prevents immigrants from participating in the social and institutional framework enjoyed by the rest of the citizens. This leads to an even greater exclusion of this collective, and at the same time increases the intolerance towards them. Worse, it leads to the institutionalization of the lie that anyone is capable of living in such a complex society, full of socially ruled activities.

Because of their juridical condition, these immigrants cannot go any place where it is necessary to present a document showing the place of birth or origin of income. So they cannot lodge a complaint against anyone, nor can they sign a rental agreement nor enroll their children in schools, nor open a bank account, and so on.

These immigrants, who are refused these important services by regular and legal channels, can potentially become a party to criminal activity. For the fulfillment of their needs, they will turn to such channels as the forgery of public documents — passports, driving licences, etc. Thus, they will turn into the lie; i.e. that economic immigrants will seek political asylum. If they are requested by the police to identify their nationality, they will declare a false one and will destroy all kinds of documents in order to make the expulsion procedure more difficult.

With regularity being, therefore, an unachievable situation for the majority of illegal immigrants, the “normal” thing (in sociological terms) is to remain irregular, clandestine, and even delinquent, as they are obliged to obtain the income and the other social needs from a sphere of marginal activities.

MEDICAL CARE

In the context of health, we can point out that there is not any minimum forecast for the medical care of the undocumented immigrants in Spain. Even when they carry out a paid activity, its irregular character will deprive them of any rights. Accustomed to being invisible and to be far removed from the institutional channels of participation in the social life, these people will not even be aware of the work developed by different NGOs to support them on these matters. Instead, they will suffer their illness alone, making use of the simple domestic remedies they know about.

In the medical centers, there are still some health personnel who do care for these people citing humanitarian grounds, even when it means that the regular practice of their duties may be jeopardized. The larger problems arise, however, when these immigrants are seriously ill. In the case of hospital admission, surgical procedures, etc., undocumented immigrants will have to pay themselves because they do not have any insurance coverage. Moreover, these expenses can be extremely high in the majority of cases. The irregular immigrants, therefore, could not afford them. Similarly, many of them find huge obstacles in carrying through with continued medical treatment. Most of the time they will get their medication on just those days when they do have enough money for it, or when they can get free medicines from one of the humanitarian agencies.

These actions, however, do not constitute a solution. They are designed to alleviate the lack of protection experienced by these immigrants in the face of illness, but they are not enough. They just apply temporary remedies to a group of people at high risk. Because of their precarious living conditions, clandestine immigrants are often exposed to endemic illnesses, as difficult to eradicate as they are easy to transmit. Therefore, it is important to keep in mind that the lack of medical care suffered by “illegal” immigrants is not only a terrible social injustice, but also a situation that could have important consequences to the national population in its entirety.

EDUCATION

Another condition of the social reality endured by immigrants is their limited educational level, which will forever condemn the majority of them to be “cheap workers” as they are easily replaced at the individual level. Undocumented immigrants will take those jobs that are less esteemed by the national workers; less-qualified jobs that are, at the same time, subject to very hard working conditions. The unique comparative advantage in favor of clandestine immigrants is their greater flexibility within the labour market, which constitutes one of the key aspects of current economic policy.

Coming mainly from poorer countries with a low standard of living, undocumented immigrants believe that immigration is their big chance for a better future. However, it is not the same with education. These immigrants do not just arrive at the

country with a poor educational level, but they also do not spend anytime trying to improve it — not even to learn the Spanish language, although this can be had for free. On the contrary, their goal is to start earning money as soon as possible in order to fulfill their migratory project, which is to stay in Spain for a short period then return to their place of origin with savings enough to initiate a new life there.

This attitude will be also transferred to their children. Besides the difficulties in enrolling in schools because of the lack of legal documents, children will be pushed into the labour market as soon as possible. They have to contribute to the family savings and, by way of this, to the family's migratory objectives. This will reduce the educational possibilities of these children and their future educational level. At best, the vast majority of immigrants' children will not continue their studies past the compulsory stage. Therefore, they are destined to replicate their parents' labour circumstances: poor educational level, limited access to non-qualified jobs, easily replaceable, and so on. And, of course, low positions in the social scale.

HOUSING

Undocumented immigrants are usually located in marginal areas where they live with other people who share the same poor conditions. Concentrated in these districts, they rarely have contact with the rest of the population. Thus, here the feelings of suspicion and fear arise.

To a large extent, these immigrants live in shanties, run-down houses, or even in old cars. Moreover, they will share this small space with a large group. Only after some time will some of these immigrants have the chance to rent a better house.

There are many factors that contribute to the continuation of this situation: the high price of rental housing, and the reluctance of many Spaniards to rent their houses to immigrant people. On the part of the immigrants, their plans of a provisional stay within the country impels them to reduce the housing expenses in favor of savings to cut short the time of their return home.

SUMMARY

Irregular immigrants are people who lack any kind of juridical, labour or residential stability. These persons go from one place to the another in an attempt to achieve a better living standard. Their situation has nothing in common with what we could characterize as welfare. They are ready to live and stay, at least temporarily, in secret. Not surprisingly, young people form the substance of this the group.

Undocumented immigrants want to work and legalize their situation within Spain, but only a few will attain their wishes. Even when this happens, their living conditions are far from optimal.

Some immigrants desire to remain permanently in our country. Others dream of returning to their country of origin as soon as possible with enough savings to start a new live there, one which is better than the one they left. But the fulfillment of both wishes will be difficult. Those who decide to stay within the receiving country will find many kinds of legal and social barriers to their integration. Meanwhile, those who decide to return will have to face other difficulties in achieving their aims before their return journey.

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