

**Immigration policy paradoxes
in Catalonia, Spain,
1985-2011:
a political economy approach**

by

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Abstract

Before the crisis Catalonia and the rest of Spain received high volumes of immigration – of which much was “illegal”. This was despite formally strict controls – EU policy – and different governments in Madrid claiming to operate a legal model of migration – leading to identification of a “policy paradox”. In the same period immigration became problematized, which in Catalonia allowed xenophobic politics to gain popular support – despite being a territory proactive at integrating newcomers. This research aimed to identify the undercurrents of these contradictions and respond to questions on the relative impact of business, state, national and electoral factors. It surveys literature on migration paradoxes and theories, develops an original conceptual framework by critically assessing a range of radical writing, performs quantitative and secondary study of the Catalan, Spanish and European economic and policy contexts (in general and regarding immigration), and analyses findings from interviews with privileged “insiders” and observers (employers, union leaders, migrant activists and policy advisors). Policy contradictions and the problematization of immigration were identified as rooted firstly in the inherent contradictions of the capitalist state. States must ensure availability of new reserves of labour to guarantee accumulation and make savings by not having to “socially reproduce” “imported” labour power. Yet their *abstract national* and *bounded* character propels constant nationcraft – a process best performed invisibly and *negatively* by symbolically and practically excluding migrants from territory, rights and citizenship. Dynamics are further driven by the desire to be seen to preserve the “rule of law” and guarantee the exclusivity of national “social contracts”. Nation-building in policymaking was detected by uncovering the national-linguistic considerations behind the controversial drive to devolve immigration powers to Catalonia. Mushrooming irregularity was a result of migrant agency and the restrictive tendencies of the Aznar administration and EU. Despite the Popular Party (and EU) being notably pro-business, tensions emerged with employers who lobbied alongside unions to bring about the liberalisations introduced by the Zapatero government (2004-2011). Employers benefit from the (continued) institutional conditioning of migrant labour and irregular hiring has been tolerated – aided by a relatively informal and insecure labour market. Yet it is a mistake to see high levels irregularity simply as labour policy. The unequal and instrumental nature of European integration meant the Spanish State played a border policing role that threatened its labour needs before the crisis. This led to political “fudge” based on varying models of irregularity-amnesty-irregularity, and reinforced pro-European and Hispanist migrant recruitment tendencies. Changes in government have reshaped policymaking (and increased or decreased related tensions) but less-democratic influences were identified in interviews and a clear political economy of immigration can be identified.

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Table of contents

1. Introduction and research design

- 1.1 Centrality of immigration and main research question
- 1.2 Engagement with recent historical developments in Spain
 - 1.2.1 The El Ejido conflicts and government and migrant responses
Problems that emerged from the 2000 reform of the Aliens' Law
 - 1.2.2 Debates on immigration as a “problem”
 - 1.2.3 The rise of racist politics in Catalonia
- 1.3 Spanish (and Catalan) policy paradoxes
- 1.4 Research sub-questions
- 1.5 Research design and methodology
 - 1.5.1 Theoretical considerations and general method
 - 1.5.2 Interview planning
 - 1.5.3 Interviews
 - 1.5.4 Employers
 - 1.5.5 Processing the interview material
- 1.6 Structure of thesis

2 Migration literature on policy gaps; general theories

- 2.1 The debate on “unwanted immigration”
 - 2.1.1 Assessing the “client politics” approach
Related views on voters as drivers of restriction
 - 2.1.2 Contradictory liberalism
 - 2.1.2.1 “Liberal constraints” on states
Global rights versus national restrictions
 - 2.1.2.2 Assessing the liberal-constraint theses
 - 2.1.3 Culturalism and state borders
- 2.2 General frameworks featuring paradoxes
 - 2.2.1 Hampshire’s model
Evaluating Hampshire
 - 2.2.2 Boswell and the contradictory functions of “states”
 - 2.2.3 Structuralist analyses
 - 2.2.3.1 Globalisation and decline of sovereignty
Appraising the globalist case
 - 2.2.3.2 Economic interests in illegality

Structural irregularity

2.2.3.3 Contradictory tendencies in capitalism

Harvey's labour mobility versus immobility

State versus capital as the key to the irregularity paradox

Dale's alternative development

Migrant agency as a source of paradox

2.3 Conclusion

3 The immigration "problem": an alternative framework

3.1 The economics of the immigration issue

3.1.1 Territorial freeing of labour in the age of revolution and capital

3.1.2 Coerced labour from periphery to core

3.1.3 Uses and abuses of characterising migrants as "a modern reserve army of labour"

Applying the "reserve" concept adequately

3.1.4 Migrant labour from the viewpoint of social reproduction

3.1.4.1 Free or cheaper social reproduction

3.1.4.2 Migration and the welfare contract

3.2 The politics of immigration

3.2.1 Early Modern imagining and making of a people

Proto-nationalist expulsions

3.2.2 Creation of the nation-state, citizens and "foreigners"

Nationalism, racism and the first immigration controls

The "nationness" and liberalness of states and the drive for immobility

3.2.3 State, nation and Othering

The democratic state as capitalist state

Permanent nation-statecraft and the problematisation of migrants

3.3 Conclusion

4. Catalonia and Spain's new immigration: features and political-economic context

4.1 Catalan and Spanish politics 1977-2019

Preliminary notes on the Autonomous Community of Catalonia

4.1.1 The general politics of post-dictatorship Spain

The political culture established in the transition period

Party politics 1982-2011

4.1.2 Catalan national politics under regional autonomy

Using autonomy to dilute minority national aspirations

Using autonomy to build the Catalan nation

Diverging national projects 1996-2001

The failure to reform the Catalan Statute

4.2 Pronounced business cycles, flexibility and migrants

4.2.1 Structural precariousness and migrant labour

Migrant and precarious labour as distinct categories

4.2.2 Underground hiring

4.2.3 Migrants in “boom” and “bust”

4.3 New immigration in Spain and Catalonia

4.3.1 Patterns of the new immigration in Spain

4.3.1.1 Origins of foreign residents in Spain

4.3.1.2 Migrants in the workforce

4.3.2 New immigration patterns in Catalonia

4.4 Conclusion

5 Primary and secondary findings on multi-level policy: dissonance in seeking control, labour and integration

5.1 Europe

5.1.1 Slow and uneven evolution of EU migration governance

Gradual communitarisation and multi-tier development of policymaking

5.1.2 Common policies

Near removal of internal borders under Schengen

EU border policy and its two features

Other EU policies and their limitations

5.1.3 Neoliberalism and bidirectional political influences

5.2 Spain

5.2.1 Spanish policymaking and transformations

Consultative forums and their changing importance in the 2000s

Civil society's roles in processes

Policies that created Spain's irregular migration model

5.2.2 Spanish policy 1985-2011

5.2.2.1 Evolution of policy

The creation of Spain's irregular migration model

Hardening of policy under Aznar

Continuities and change during Zapatero's first term

Less visible and more mixed policies 2008-2011

5.2.2.2 Policy responses to irregularity

Irregular entry or settlement

Recurrent and larger amnesties

Limited acts of deportation

Few actions against irregular employment

5.2.3 Two additional features of Spanish policy

5.3 Catalonia

5.3.1 Catalonia's frustrated attempts at self-management of immigration

5.3.2 The Catalan emphasis on integration and its rationale

Envisaging the new immigration as a bigger "threat"

5.3.3 immigration-related institutional structure and policies

Implemented policies

5.4 Conclusion

6 Empirical discoveries: migration policymaking from the inside

Introduction

6.1 Effective relationships between scales of policy making

6.1.1 Spain is partially sovereign in relation to Europe

Evidence that the EU directly administers borders

6.1.2 Confirmations and qualifications on the Spanish-regional order

6.2 Four-tier decision-making with limited consensus

6.3 Key policymaking actors in practice

6.3.1 The state

6.3.1.1 Governments and outside pressure

6.3.1.2 The political influence of civil servants

6.3.2 Civil society

6.3.2.1 Employers and their part in liberalisation

Pioneering farmers

6.3.2.2 The unexpected and semi-progressive role of the unions

6.3.2.3 Convergence and divergence between unions and employers

6.3.2.4 Migrants as shapers of processes

6.4 Conclusion

7 Interview findings: underlying dynamics of policy "gaps" and tensions

7.1 Lived policy in the 2000s

7.1.1 Limited legal migration routes

- 7.1.2 Employer dependencies encouraged by regularisation rules
- 7.1.3 Shortcomings of the labour approach to policy exposed by the crisis
Tensions between social agents and government greater under the PP
- 7.1.4 Questioning of political commitment to integration
- 7.2 Participant views on the irregularity paradox
 - 7.2.1 Qualifications on the extent of irregularity
 - 7.2.2 Rootedness continues the Spanish model
 - 7.2.3 Structural and tolerated irregularity in construction
 - 7.2.4 Doubts that irregularity is intentional
- 7.3 Hidden national considerations in immigration policy
 - 7.3.1 The cultural preferences of Spanish elites
 - 7.3.2 Cultural components in the decentralisation debate
 - 7.3.3 Integration and nation-building
- 7.4 Conclusion

8 Conclusion: immigration paradoxes as dilemmas of a European state

The capitalist state as the generator of irregularity and problemisation

A second source of paradox: a partial, divided and de-embedded Europe

9. Appendices

9.1 References

9.2 Methods materials

Interview and meetings schedule

9.3 Two edited interview transcripts (translated from Spanish)

9.3.1 Interview on Spanish border policymaking and practice

9.3.2 Interview with union specialist on migration

9.4 List of figures and tables

9.5 List of abbreviations

Chapter One

Introduction and research design

1.1 Centrality of immigration and main research question

Immigration is one of the key political issues of our time. In 2015 a major crisis for the European Union (EU) began with the arrival of hundreds of thousands of refugees – mainly fleeing wars in the Middle East. In response, some countries re-established national border controls removed under the Schengen agreement on free circulation of citizens within EU borders, and discussion began about the possibility of the continental project unravelling – such is the importance of Schengen to the EU (Barker, Byrne & Vasagar, 2015). At the same time, migration arguably has become a defining feature of domestic politics in many developed countries where far-right parties and leaders have gained mass electoral support and in several cases entered governments (Burchianti & Zapata-Barrero, 2012: 6; Sevastopulo, 2015). In Britain a defence of greater migratory restrictions played a major part in the June 2016 EU referendum, and Donald Trump won the US Republican nomination after raising the ideas of building a wall between Mexico and the USA, deporting all undocumented migrants and their children, and temporarily banning entry to the USA to all Muslims.

An exhaustive 2013 study identified the political polarisation taking place over migration as follows:

In Europe, loud and contradictory claims are made for and against immigration; according to some, immigrants are rejuvenators of ageing populations, motors of economic growth, and saviours of the European welfare state; to others they are to blame for native unemployment, wage depression and welfare costs, not to mention social and cultural disintegration. The debate is barely less polarized in North America and Oceania, despite their longer historical experience of large-scale immigration and their self-identification as nations of immigrants. ... It is clear that across the rich liberal democracies, immigration is an issue freighted with a lot of political baggage. (Hampshire, 2013: 1).

Where there are hostile attitudes to immigration, this does not appear to correlate simply with high levels of immigration locally. Indeed anti-immigrant voting can be weaker in areas with larger proportions of foreign residents (such as London, where approximately a third of the city's population were born outside Britain, and anti-immigrant parties have had electoral success limited to very localised areas). This suggests that it is not immigration per se that is problematic but *perceptions* of it – as refracted through politics and the media. Similar distortions can be identified in Spain where “immigration” has consistently ranked high in monthly opinion polls identifying “Spain’s main problem”, but when those polled are asked about “the problem personally affecting you the most” migration obtains a much lower ranking¹.

Such a view is reinforced by the observation that opinions on migration often are fluctuating and inconsistent. In the summer of 2015, after a period in which EU immigration and asylum regimes were probed and criticised – reaching a climax after the publication of the image of young Aylan Kurdi drowned on a Mediterranean beach – surveys found that half of the British population wanted the country to accept more refugees and opposition to immigration as a whole fell significantly (Comres, 2015). Large protests showing solidarity with refugees took place in several European cities – including a demonstration of a hundred thousand people in London. (AFP, 2015; Khomami & Johnston, 2015). Yet support for awarding asylum in Europe fell after the November 2015 Paris atrocities and January 2016 Cologne sexual attacks – even though the direct links between the two events with forced migration were tiny² (Richards, 2015; Dearden, 2016). Inconsistencies in opinion – shared by the institutions, political parties and the media – exist regarding the idea of who is and who is not a “migrant” or “immigrant”. Such terms are rarely used, for example, to describe the North-American visa over-stayer, the African Premier-League footballer, the foreign businessperson, or “the Brit abroad” (usually described as an “expat”), yet all these groups migrated and settled abroad.

The above examples – and others that could be provided – show that despite the large volume of discussion taking place on the immigration issue, the level of genuine understanding of the matter has its limits. This can be identified among people that have very different strong opinions on the subject. Both conservatives and progressives tend to underestimate the practical difficulties for governments – including those formally in favour of reducing migration – to be able to greatly limit migration (even if those same governments do apply some strict controls, and make life more unpleasant, precarious and dangerous for many foreigners). Conservatives increasingly have chosen to support far-right political

alternatives. The pro-migrant left has sometimes over-predicted mass expulsions of migrants under governments discursively hostile to migration. In both cases political action is treated as commensurable with political discourse, and seemingly the structural role of migration to national economies (including state finances) is ignored. British progressives that have understood anti-immigrant attitudes in the post-War period mainly in terms of race relations express their surprise that a bifurcation has developed between public attitudes towards race – generally more open or anti-racist – and towards foreign residence, which is frequently treated with alarm.

A re-visiting of the immigration question is required which deals adequately with its specificities (as well as its partial autonomy from racism). There is some political urgency in developing a better understanding of the deeper dynamics of the immigration question, and for scholars to contribute to such a process. A good – however ambitious – starting point would be to attempt to better comprehend the major contradictions in immigration policy and politics, as both logically and in the initial literature consulted these are frequently linked to political controversies and tensions. Such paradoxes are an international phenomenon but would include the failure by the Conservative government of David Cameron (2010-2016) to achieve its promised reduction of migrant numbers despite many criticisms from the right-wing British media and politicians.

Such incongruities are particularly strong in the country (Spain³) and sub-state (Catalonia) subject of this study. Between the late 1990s and the crisis period right-wing and centre-left governments in Madrid claimed to be applying policies that channelled inward migration through limited legal routes, but in practice migration and particularly irregular migration increased massively (as is examined and re-examined in section 1.3 and Chapters Four, Five and Seven). A further paradox is that the “regional” territory with the greatest expressions of public hostility towards immigration – in the form of xenophobic street protests and the electoral successes of openly anti-immigrant parties (an advance unparalleled in the rest of Spain) – is that in which the more local authorities have best attempted to promote the integration of newcomers. This territory is Catalonia.

The main aim of this research is therefore to identify the deeper drives shaping immigration policy – both *stated* and *applied*, policymaking and politics, in order to gain a logical appreciation of why the subject is so frequently and sharply contested, as well as treated as a problem. This goal is pursued by asking the question *of what the underlying political and economic dynamics are behind disparities between policies and outcomes across the whole of Spain and in Catalonia in particular*. This was the central problem

around which the research has been designed, performed and presented. It is a “big” and inherently multi-disciplinary question to which the answer would inescapably be limited to being an approximation rather than final verdict. To aid such a complex task the enquiry was broken down into more specific sub-questions, which shall be presented in this introduction (in 1.4). However, before outlining these it is convenient to provide background to the study in order to facilitate comprehension of many of the assumptions that informed the different research interrogations.

1.2 Engagement with recent historical developments in Spain

Three recent historical developments taken place in Spain have been crucial to the configuration of this study. The first of these processes or set of interrelated events was the 2000 race riots and migrant strikes in El Ejido (Andalusia) and the reform of the Aliens’ Law carried out that year by the conservative Aznar administration. The second development was the growth of the public perception of immigration as “a problem” developing between 2000 and 2006. In the latter year, under the Socialist administration of Zapatero, and coinciding with “the Canarian boat crisis”, immigration became identified as Spain’s biggest problem in polls, overtaking issues such as unemployment or terrorism. Such rejection was followed by public debates among progressives about whether immigration should be restricted (or even whether the undocumented should be deported) in the interests of working-class Spaniards. A third related transformation, this time focused territorially on Catalonia, was the emergence in the same period of xenophobic and Islamophobic institutional decisions, political discourse, street movements and political parties.

I had some personal engagement with each of the sets of events. Between 1993 and 2005 I lived in Barcelona and Madrid and participated in demonstrations, meetings and occupations by undocumented migrants and supporters. The most dramatic of these protest activities were in response to the 2000 Reform. In 2008 I participated in a debate in the theoretical magazine *Viejo Topo* in response to a “report” by Communist writers that was extremely hostile to immigration. I developed my ideas further to produce an academic-journal article (‘Borders, Labour Impacts and Union Responses: Case of Spain’) published by *Refuge* (Stobart, 2010). Understanding the growth of the new xenophobic and racist politics in Catalonia became of particular interest to me when I returned temporarily to live in Barcelona in 2011 and became a local activist in the anti-racist movement *Unitat contra el*

Feixisme i el Racisme. This experience inspired me to write the journal publication 'The Re-Emergence of the Spanish Far Right: Why in Catalonia?' (Stobart, 2013)

As well as the above events (and related intellectual activity) having played an important role in developing the present research focus, they also made a large impression on political, academic and media analyses in Catalonia and Spain. Consequently they were referred to regularly in the practical research performed here, normally being raised without prompting by participants. For the sake of comprehension each development is described in some detail in the following sub-sections.

1.2.1 The El Ejido conflicts and government and migrant responses

Spanish society transformed from the mid-1990s to the mid-2000s. Previously Spain had been a country of emigration – including by millions that fled the Franco dictatorship; now it was becoming one of immigration – spurred by relatively high levels of job creation and demographic decline⁴. Foreign residents – most of whom originated from poorer continents or sub-continents - increased from 1.5 per cent of the total population in 1996 to approximately 12 per cent in 2006 (Cornelius, 2004: 388; Bolaños, 2009). Large-scale entry of migrants took place in the workforce – of nearly three million workers in the same period – and irregular settlement was commonplace (Bolaños, 2009). By the end of the 1990s it was clear that Catalonia and Spain's racially homogenous society was diversifying.

In the late 1990s violent anti-immigrant backlashes occurred in Spain's north-African enclave Ceuta (led by police) and a poor neighbourhood in Terrassa, Catalonia⁵ (Rius-Sant, 2007; Cornelius, 2004: 418). A bigger racist riot took place in February 2000 in the small agricultural town of El Ejido (Almeria) after a young woman was stabbed to death by a mentally-ill Moroccan. The incident occurred in an area employing tens of thousands of migrants in intensive farming, and had been the site of rising hostility towards migrants – including by the local authorities and media (Calavita, 2005: 70; Rius-Sant, 2007: 208). For days following the killing local residents formed mobs and engaged in "moor hunting" – physically attacking North Africans and setting fire to their homes. After the violence 374 immigrants reported having been attacked and 221 having lost their homes, making the event one of the worst cases of racist violence in Europe in decades (Rius-Sant, 2007: 203; SOS Racismo, 2001).

While the media condemned the violence, El Ejido was often presented by Spanish media and politicians as demonstrating the dangers of large-scale immigration (rather than

xenophobia or racism). Right-wing Prime Minister José María Aznar refused to denounce the mob violence, claiming that “one had to be there”⁶ to hold an opinion (SOS Racismo, 2001: 74). Migrant farm labourers, who made up 90 per cent of the local immigrant population, reacted militantly – holding an eight-day “wildcat” strike coinciding with the harvesting season and costing employers millions of Euros (SOS Racismo, 2001: 105; Rius-Sant, 2007: 205). After negotiations between unions, NGOs, public authorities and farmers’ associations, local North Africans were provided with emergency shelter, public transport, compensation for damages, and improvements in working conditions⁷ (Rius-Sant, 2007: 205). In the following months migrant farmworkers in Catalonia also struck.

Subsequent media, activist and academic attention revealed that the conditions underlying the El Ejido violence were those of social inequality and segregation between migrants and non-migrants, and that these had been underpinned by low-wage and precarious hiring in local farms. Work was in high-temperature plastic greenhouses using high doses of harmful pesticides⁸. 70 per cent of the foreigners employed were undocumented, and most employment was “off the books” (Calavita, 2005: 71; Cornelius, 2004: 399; SOS Racismo, 2001: 31). The agricultural and labour model proved lucrative for local farming: helping the area transform from being among the poorest in Europe to being one of the richest (Rodríguez, 2008: 64 & 65). Yet migrants often lived in shacks or ruins away from the town areas. This was Town Hall residential policy, as was infamously explained by the local mayor - a member of the People’s Party (PP): “[i]mmigrants are good for the municipality while they are working, but they must take the bus and leave at seven in the evening” (Rius-Sant, 2007: 202).

Problems that emerged from the 2000 reform of the Aliens’ Law

A relatively progressive Aliens Law had been passed months before the El Ejido events against the wishes of the PP minority government (and backed by the Catalan and Basque nationalist parties that had previously given the government parliamentary support; see 5.2.2.1). The Law provided for a programme of regularisations. During the March 2000 general-election campaign the PP promised to radically reform the Law – blaming it for the riots (ibid; Rius-Sant, 2007). The People’s Party won an absolute majority for the first time, and local candidates that had campaigned over immigration gained good results (ibid). The new government acted rapidly to reform the 2000/4 Law, arguing that greater restrictions were necessary to avoid xenophobic backlashes (Cornelius, 2004: 137; see 5.2.2.1). The

reformed Law (2000/8) increased controls by easing expulsions, making it harder for migrants to obtain permits and settle their families with them. It also removed the right for undocumented workers to protest, strike and join unions (5.2.2.1). Very many “sin papeles” no doubt had their hopes of legalisation raised by the 4/2000 Law and the amnesty it initiated, but few would benefit (ibid; 5.2.2.2).

Attitudes towards immigration hardened further among the government (which after S11 treated illegal immigration as a threat comparable to “terrorism”⁹). The public mood also transformed. Regular surveys in the 1990s had found Spaniards’ attitudes to immigration to be “benign” or “sympathetic” (Cornelius, 2004: 419), and an academic study performed at this time identified increasingly favourable attitudes to immigration in Spain (Pérez-Díaz, Álvarez-Miranda & González-Enríquez. 2001: 34). However, by late 2000 this was changing. In one year surveys showed that the proportion of people that believed there was too much immigration tripled (reaching a total of 27 per cent in 2000, Calavita, 2004: 126). A 2002 survey found one in four persons identified migrants as “a danger to our culture and identity” – compared to little more than one in ten in 1999; and one in three respondents felt migrants were “a threat to public safety and security” – a rise from one in six in 1999 (Calavita, 2005: 126 & 127). One researcher linked the polarisation of public opinion with government intervention on immigration, indicating,

“the hyperbole surrounding Aznar’s campaign to reform the immigration law is widely thought to account for the abrupt shift in Spaniards’ attitudes about immigration from 1999 to 2000 and beyond” (Calavita, 2005: 137)

Other possible explanations for the change in attitudes have been given, including growing regular, irregular and non-EU foreign settlement (see 5.3.1). Immigration was given greater and more negative media coverage (Nash, 2005; Cornelius, 2004: 421). Various researchers identified that the media frequently made associations between immigration and criminality, and described even small arrivals of people with exaggerated and alarmist terms such as “avalanches”, “invasions” and “floods”¹⁰ (Nash, 2005: 48; Calavita, 2015: 138). Such language could be found in respected broadsheet newspapers (including the progressive *El País*) and even a serious academic study labelled immigration a “foreign invasion” (Pérez-Díaz, Álvarez-Miranda & González-Enríquez, 2001: 20). For Calavita the use of such language encourages seeing immigration as irrational, uncontrollable and dangerous (2005, 138).

In January 2001, when the new law came into effect, undocumented migrants in Barcelona reacted by holding church sit-ins and hunger strikes. The sit-ins spread across

Spain to include a total of seven hundred such protests in the Barcelona area, two hundred in Murcia, a hundred in Melilla, and fifty in Madrid (ibid: 103). Hundreds of thousands demonstrated in support of the migrants and Barcelona neighbourhood associations collected blankets. Migrants in eight churches continued their protest for forty-nine days – after which they were given residence permits and jobs (Pérez-Díaz, Álvarez-Miranda & González-Enríquez, 2001: 103; Rius-Sant, 2007: 109 & 121). Conflicts over “papers” and in response to further government restrictions would continue over the following years (Calavita, 2005: 118).

It was not just relations between government and migrants that declined over migratory policy. The August 2000 reform began years of divergence between government and opposition - including the large centre-left Spanish Socialist Workers' Party (PSOE) and pro-Catalan “regional” parties (ibid: 419; Rius-Sant, 2007). Intra-governmental tensions also emerged. Before the elections the Minister of Labour and Social Affairs, Manuel Pimentel, resigned from his post, becoming one of the most vocal critics of the immigration politics of the Aznar government. Pimentel denounced that the legislation passed in this period was “pushing [migrants] de facto into illegal routes” (2002). He later said, “I did sums and I realised that we needed a lot more immigrants than this two per cent that there were, but we didn't have an entry route. Research told us that there was a need for more than two-hundred thousand a year, but we only wanted to authorise twenty or thirty thousand” (Rius-Sant, 2011: 40). For the ex-minister policy was being led by the Interior Ministry and its obsession with “security”, which did not suit “the interests of the Spanish job market” (ibid: 40 & 43).

The 2000-2001 experiences, and related conversations I had with organisers of the El Ejido strikes and other protests, led me to make several deductions. First, it was evident that irregular labour played an important role in some sectors of the economy, and that its legal precariousness allowed for high rates of exploitation that laid the material foundation for social divisions and conflicts¹¹. Second, it was increasingly clear that the government was producing “illegality” through its legislation – despite claiming to be doing the opposite¹². Despite Pimentel's diagnosis that policy collided with labour interests, the measure in the 2000/8 Reform to remove civil rights from the undocumented implied acceptance of irregular migrants being resident and employed. The modified law acted mainly against the agency of the irregular-migrant workers. This logic was defended by the conservative-appointed President of the Social Forum for the Integration of Immigrants (FSII), for whom the change of legislation was necessary to prevent workplace and political

struggle by migrants, which he equated with “social destabilisation” (see 5.2.2.1). These indications together raised the question of whether irregularity was a deliberate labour policy to benefit certain groups of employers – the view of many activists in migrants’ solidarity activities. The El Ejido strikes and 2001 sit-ins indicated that even undocumented migrants could shape employment and institutional processes – an observation I later discover as lacking in many scholarly, activist and NGO accounts on the same period¹³. However the government response suggested that immigration policy is a mechanism through which migrant subjectivity can be undermined¹⁴. The conclusion that irregularity had benefits for employers and that the government seemed less interested in preventing such hiring than workplace organising raised the question of the functionality of borders, which fed into my future research (including my sub-question 1, 1.4).

1.2.2 Debates on immigration as a “problem”

The development of more negative public attitudes towards immigration that coincided with the mentioned conflicts and hardening of policy and discourse suggested two things. Firstly openness towards migration was not fixed and could vary rapidly. Secondly it could be identified as being influenced by legislation, policy management and public discourse - rather than being a mechanical response to higher or lower levels of immigration. These observations were useful to comprehend the further growth in public rejection of migration that emerged over the following years.

A year after the PSOE came to office under the premiership of José Luis Rodríguez Zapatero in the wake of the 2004 Madrid bombings, an “amnesty” was performed in which hundreds of thousands of undocumented migrants gained residence permits or regularisation (see 5.2.2.2). The process was criticised by Popular Party and European leaders – claiming it was likely to have a “pull effect” on future immigration (Garcés-Mascreñas, 2012: 156). While the economy continued to grow, legal routes of entry were expanded to fill labour vacancies, and the PSOE and associated media presented the “economic case for migration” (or defence of such based on its “usefulness”; Burchianti & Zapata-Barrero, 2012: 4).

As part of this advocacy, Zapatero’s Economic Office published the estimation that 52 per cent of total economic expansion in the period 2001-2005 – a period of relatively high growth – had been provided by migrant-labour inputs and social-security contributions (De

la Dehesa, 2007). Liberal economists also contributed arguments – sometimes based on how profitable immigration is for employers: “[i]mmigration helps ... control wages” and encourages “flexibilisation of the labour market” (ibid). The PSOE government pointed to support for its approach among employers, yet it is difficult to see how reducing wages and job security would have appealed to working Spaniards.

Furthermore, the economic defence of migration was countered by negative discourse from the conservative opposition and the media – particularly of the right-wing variety; and the effects of increased controls on Spain’s southern border meant the migration topic rarely left the news. In collaboration with EU agencies, Spain had developed advanced-technological surveillance and patrolling of its Mediterranean border, and agreements were reached with North African states to prevent migrants from leaving to Europe. This encouraged trafficking routes to move further south – now departing from west-African states to travel to Spain’s Canary Islands west of the Sahara (Chrisafis & Soares, 2006). This Atlantic route was perilous for the small boats used and both rescues and deaths peaked. According to European Union figures, 10,000 people lost their lives crossing to the Canaries in the five years before 2007 (SOS Racismo, 2008: 49; Padrón-Fumero, 2008). Media images of the Canarian boat crisis, including of regular arrivals at the small Spanish islands, fed perceptions of mass migration and an association between migration and human disaster.

It was coinciding with these events that in the monthly household surveys performed by the Spanish state’s Centre for Sociological Research (CIS) “immigration” became identified as “Spain’s main problem” (CIS, 2006). International media analyses had celebrated Spanish “tolerance” of first-time large-scale immigration – a view partly based on the lack of Spain-wide anti-immigrant parties – but in Spain the conversation was increasingly about immigration being a “problem”. A study of yearly CIS survey results found that the proportion of Spaniards whose attitude towards immigration can be classified as “tolerant” was surpassed by those with both an “ambiguous” or “intolerant” approach between 2005 and 2007¹⁵ (Cea-D’Ancona, 2010). In other words it was now a minority view.

The PP included immigration at the centre of its March 2008 general-election campaign: proposing limiting use of Islamic headscarves and for migrants to sign an “integration contract” requiring them “to comply with the law, respect Spaniards customs, learn the language, pay their taxes, work actively to integrate into Spanish society and return to their country if they cannot find work for some time”¹⁶ (Bárbulo & Garriga, 2008). This failed as a strategy to regain office (possibly even undermining its overall campaign as

critics were able to associate these ideas with right-wing reaction). Yet Zapatero chose to include in his second government a Minister of Labour and Immigration who had a reputation (as mayor of the Catalan city of L'Hospitalet) for being hard on immigration. The new Minister restricted legal entry and introduced financial incentives for unemployed migrants to return to their countries of origin (see 5.2.2.1)

The above context was that in which arguments in favour of restricting migration were made publicly by sections of the “alternative left” (to the left of the PSOE) and the leaderships of the large trade unions (Stobart, 2010). Jorge Verstrynge, a Communist with a history of hard-right membership, co-authored the Viejo Topo “report on immigration”, arguing that immigration was for “elites” and against the interests of the Spanish popular classes (Verstrynge, Sánchez-Medero & Sánchez-Medero, 2007). The study advocated policies of zero immigration and the forcible expulsion of (around a million) undocumented migrants from Spain (Ibid).

The in-depth discussion on this report in subsequent magazine editions, which involved economists, a trade union leader and myself, encouraged me to research more deeply the impact of immigration on employment, wages, precariousness and welfare provision (Cañadell, 2007; Torres-López & Gálvez-Muñoz, 2007; Stobart, 2008). My subsequent Refuge journal article on Spanish literature related to “labour impacts” revealed that large-scale migrant recruitment probably had had a negligible effect on formal employment conditions in two of the sectors hiring most migrants: construction, and hotel and catering¹⁷.

However, in employment divisions where migrant workers tended to remain irregular and/or faced other legal disadvantages – as was the case for many migrant women working in domestic service – there had been a general reduction in earnings and working conditions – including domestic employment becoming predominantly “live-in”¹⁸. My broad conclusion therefore was that the material basis for divisions between migrant and non-migrant workers was largely created by borders – including less-visible ones existing inside states – rather than being a product of immigration in itself (Mezzadra, 2004).

Like liberals defending the economics of contemporary migration, protectionist detractors from both left and right make a similar reduction when evaluating migration: they equate free circulation with its problematically conditioned form in contemporary society (Oglietti, 2006; De la Dehesa, 2007; Recio, 2008; Verstrynge, Sánchez-Medero & Sánchez-Medero, 2007). Thus they neglect the impact of legal compulsions on migrants when attempting to demonstrate the regressive implications of immigration. This is a highly

problematic oversight bearing in mind that their normative conclusions often include greater regulation of mobility.

1.2.3 Role of Spanish nationalism and regionalism in the rise of racist politics in Catalonia

My published research on the rise of anti-immigrant politics in Catalonia was directly motivated by a series of observable differences in the territory's immigration politics. Catalonia was the only "autonomous community" (region) in Spain where a neo-fascist party – Plataforma per Catalunya (PxC) – had made a considerable electoral breakthrough in the democratic period (Stobart, 2013). PxC won 67 local seats in the May 2011 municipal elections on a platform calling for preferential treatment towards non-migrants¹⁹ (Hernández-Carr, 2011: 3 & 24). Furthermore the Catalan branch of the People's Party (PPC) had adopted a notably more anti-immigrant stance than the party Spain-wide: in the 2010 Catalan election campaign the leader of the PPC proposed repatriating long-term unemployed migrants; and a Popular Party mayor was taken to court for including the words "we don't want Romanians" on an election leaflet (Piñol, 2010; Rius-Sant, 2011: 204 & 214). Both of the parties described would be best described as pro-Spanish rather than Catalan nationalist – despite PxC's nationally ambiguous discourse and celebration of its regional identity, so the strength of anti-immigrant sentiment cannot be reduced to the strength of local nationalism. Yet anti-immigrant politics has been advocated by leading members of pro-Catalan parties. For example, in the early 2000s historic representatives of local nationalism in the centre-right Convergence and Union (CiU) and centre-left Republican Left of Catalonia (ERC) made alarmist statements about non-European migrants – particularly Muslims – being an existential threat to Catalan identity²⁰ (Santamaría, 2003; Stobart, 2013).

In different Catalan localities in the 2000s there had been social conflicts in response to the building of mosques, "immigrant crime", and by migrants over discrimination in policing²¹ (Garcés-Mascreñas, Franco-Guillén & Sánchez-Montijano, 2012: 269). In 2010 and 2011 several developments took place in which different parties engaged in anti-immigrant and anti-Muslim behaviour that attracted "huge public and media attention and created important controversies" (Burchianti & Zapata-Barrero, 2012: 2 & 7). These included the vote by the Town Hall of Vic to exclude undocumented migrants from the municipal register and services and therefore deny them and their families the right to public provision

(including healthcare and schooling) – a measure proposed by PxC but backed by the CiU mayor. It also included the banning from public buildings of the wearing of the Niqab in several Catalan cities and towns – most of which were run by the Socialists (PSC), and a May 2011 election campaign that in many Catalan municipalities became focused on immigration and its alleged associations with criminality or anti-social behaviour²² (ibid: 2, 3 & 11; Garcés-Mascreñas, Franco-Guillén & Sánchez-Montijano, 2012). Such expressions stood out because there were few comparable cases in other autonomous communities (Garcés-Mascreñas, Franco-Guillén & Sánchez-Montijano, 2012: 284).

These events took many Catalans by surprise, for which several reasons were cited. Firstly the territory has traditionally been characterised as being in the vanguard of liberal, progressive and radical politics (including a strong anarchist current in the early Twentieth Century). More significantly the main varieties of “Catalanism” (Catalan nationalism) that has been politically hegemonic in the Catalan territory since the 1970s have adopted an inclusive rather than exclusive attitude towards the very many non-Catalans that have settled in the territory – an approach embodied in the local preference for the term “catalanisme” over “Catalan nationalism” (4.2.1). For example the centre-right Catalan president Jordi Pujol between 1980 and 2003 famously treated a Catalan as anyone “who lives and works in Catalonia and wants to be it” rather than being of a particular descent (see 5.3.2). This attitude, as well as local-institutional policies encouraging knowledge and use of the Catalan language and culture, has been a factor in the relatively successful incorporation of migrants and particularly their children within the Catalan-national identity (see 5.3.2 & 4.2.1 for more details). Catalonia’s capital Barcelona stands out as applying a policy of mixing non-EU migrant pupils beyond their usual catchment areas to avoid “ghettoization”.

A further surprise regarding the new xenophobia was that many of the “native” population opposing migrants were people who themselves had moved to Catalonia in the past – from other Spanish territories – and may have suffered the kind of social marginalisation and discrimination now faced by non-European migrants. In other words, divisions were being detected between previous migrants and those one Catalan writer has termed “new immigrants” (Rius-Sant, 2011). The lack of historical memory this implied added to a notable unease and confusion among more progressive Catalans about the roots of this reactionary politics.

My study reached the initial conclusion that there were local party-political factors driving the growing xenophobia. These included the peculiar existence in Spain of a significant neo-fascist party (PxC), which benefited from fostering an image that was both

“respectable” and Catalan regionalist – in both cases helping avoid association with Franco’s hyper-centralist regime and its symbols (including the Spanish flag). This strategy proved to be more successful than the more traditional and identifiable approaches of extreme-right organisations in Spain and other ACs (Stobart, 2013). Secondly it appears that the Popular Party of Catalonia could use discourses promoting the political and social exclusion of migrants to encourage identification with Spain and the PP (ibid, 2013; section 3). In Cetti’s words, Spanish nationalism was “derived negatively” through such a process (2014: 131). A further factor was that the PPC’s limited electoral appeal among centre voters in Catalonia meant that it was willing to risk applying a hard-right discourse in Catalonia, as it had not done in monolingual Spain (Carmona, García & Sánchez, 2012).

The examples given demonstrate how Spanish, regionalist and sometimes “Catalanist” politics promoted exclusionary dynamics, probably exacerbated by electoral competition between different right-wing and other parties. This raised the question of the exact relationship between nationalism (both of existing nation states and potential ones) and the inclusion and exclusion of foreigners – an aspect also explored in the present research.

1.3 Spanish (and Catalan) policy paradoxes

The findings from both my previous studies and observations from the 2000-2001 events strongly suggested that party-political influences were only one element in the controversies associated with immigration. Xenophobic or racist conflicts and the negative perception of immigration had developed *across Spain* – not only in Catalonia – and the initial evidence suggested that high levels of illegalisation of migration resulting from restrictive yet permeable border control contributed to these developments. This link had been identified by two writers on Spain: US migration-scholar Wayne Cornelius and Catalan writer Xavier Rius Sant (Cornelius, 2004; Rius-Sant, 2007 & 2011). In 2004 Cornelius linked growing irregularity to “[x]enophobic public backlashes”, describing how government practice produced “illegality”:

Land and maritime borders remain remarkably porous despite sharp increases in spending on border enforcement. Workplace enforcement is of only symbolic import. Regularized immigrants fall into illegality and fail to gain permanent legal resident

status because a dysfunctional bureaucracy makes it impossible for them to string together enough periods of (legal) temporary employment. Apprehended illegal immigrants under deportation orders reach the legal limit of forty days of confinement and are released to the streets, without possibility of legal employment. Disappointed asylum seekers also remain mostly at large, because there is no administrative capacity (nor will) to round them up and expel them. Meanwhile, the supply of foreign-born labor expands by 20 percent or more per annum and the economy booms (Cornelius, 2004: 390 & 424)

By the beginning of the crisis (2008) irregularity had grown. The Zapatero government (2004-2011) appeared to be acting on its promise of limiting migration to legal channels – including by reinforcing control of Spain’s Mediterranean border. Yet despite the legalisation of large numbers of migrants in 2005 and the expansion of individual authorisation of permits, irregular migration continued rising. In 2008 the Minister for Labour and Immigration acknowledged that 700,000 migrants resided “illegally” in Spain – a figure that the conservative opposition raised to 1.6 million (Abellán & De Barrón, 2008)²³. Furthermore, irregular residence was long-term: a CIS study from a few years previously found 40 per cent of irregular migrants had been living in the country from six to ten years (Rius-Sant, 2007: 184). This was a high figure considering that immigration was a new phenomenon.

Further gaps in border implementation can be identified. Many migrants detained at the border – including around the Canaries, Ceuta or Spain’s second north-African enclave Melilla – were later released on the Spanish mainland being placed under “unenforceable expulsion orders” (Rius-Sant, 2007: 129 & 279). This occurred, for example, with 5,473 of the 9,756 Africans detained in the Canary Islands in 2002 (ibid: 280). According to the anti-racist organisation SOS Racismo, the vast majority of immigration took place through airports (80 per cent of the total in 2007) and visa overstaying was widespread (ibid: 15). This was no doubt facilitated by Spain being one of the biggest holiday destinations in the world and the associated limits to the government’s inclination and capacity to obstruct activities that provide economic opportunities and revenues for the state (Baldwin-Edwards, 1998). As well as irregularity creating legal disadvantages for migrants and therefore encouraging social divisions, it is also strongly stigmatised by the political consensus. Because of the prevalence of irregularity in Spain this would have reinforced rejection of immigration in general²⁴.

Rius-Sant characterises policy as featuring both “strictness” and “laxity”, describing the combination as a “paradox” (2007: 117 & 118). Cornelius and Takeyuki Tsuda use the term “policy gaps” for what they identified in several developed countries as the “gap between attempts to control immigration [which had increased] and ‘unintended’ outcomes”, which were also growing (2004: 4, 5 & 9). This view connects with the concept of “unwanted immigration” debated by various scholars (Joppke, 1998a & 1998b; Freeman, 1998).

Studies offer different explanations for the identified policy gaps or immigration paradoxes – terms that will be used interchangeably throughout the present thesis (or merged as “immigration policy paradoxes”; Acosta-Arcarazo & Feline-Freier, 2014). Some writers root the gaps in administrative “inefficiencies” or bureaucratic excesses, presenting irregularity as emerging *against* political aims (Cornelius, 2004: 423; Baldwin-Edwards, 1998: 13). Baldwin-Edwards links high levels of irregularity to “policy deficits” in Mediterranean states in the 1980s (1998: 4). Relatedly, Rius-Sant identified the irregularity paradox as having stemmed from the combination of a lack of government planning in the 1990s and restrictive policies in the 2000s – particularly under the Aznar administration (2011: 285). Another view is that gaps result from different policy aims at different territorial levels (with contrasting economic and institutional priorities). A concrete example given is that restrictive EU border policy collided, particularly in the pre-crisis period, with a desire by member states to reverse demographic decline through immigration (Rius-Sant, 2007: 117 & 118).

A study on several Mediterranean states identifies “a serious inconsistency between the severity of immigration control and the laxity of labour market regulation”, concluding that “the most important factor” attracting immigration “is the attraction of large underground economies capable of supporting – even requiring – the employment of immigrant labour” (Baldwin-Edwards, 1998: 3 & 10). This could be interpreted as suggesting there is a contradiction between *structural* requirements for labour migration and the *political* desire to manage and restrict mobility. It could also be deduced that large underground labour markets make the illegalisation of migration structurally inconsequential or even beneficial, suggesting that illegality may be intentional. A study focused on employment in Almerían agriculture pointed to how “illegality” played a functional role for employers by curtailing migrants’ ability to resist exploitation (Calavita, 2005).

Studies on Spain agree that prior to the crisis Spanish firms required accessing new reserves of labour – a factor mediating against enforcing European restrictions. However the restrictive tendencies of states and/or the EU are given less attention. Where the dynamics

of state restriction are discussed these are usually associated with “voter influence” - as if state behaviour were a mechanical reflex of public opinion – an assumption questioned in Chapter Two (Cornelius, 2004). Similar limitations also exist in the general migration literature on policy gaps or “unwanted immigration” – meaning that an Iberian case study could potentially provide insights of universal relevance.

1.4 Research sub-questions

The background introduced in 1.2 and 1.3 both illustrates how I arrived at the design of the research presented in this dissertation and provides a basic introduction to the politics of immigration in Spain (and particularly Catalonia) that can facilitate comprehension of the research objectives. Concretely it has provided an indication of the size and political implications of the main immigration policy paradox in Spain (irregularity) and identified its likely impact on the rise of negative attitudes towards immigration. The brief look at the more localised paradox of xenophobic and racist party politics developing in a territory with a relatively inclusive policy approach towards migration suggests that a significant ingredient in the dynamics of the immigration issue is nationalist politics. Lastly it has raised some contrasting explanations of irregularity in the literature on Spain, which shall be assessed in the conclusion to this dissertation.

To help unpack the dynamics behind disparities between policies and outcomes, a series of sub-questions were developed at the beginning of the research process. All of these assume that immigration politics has a rational kernel, a supposition that shall be revisited in the concluding chapter.

1) How do different economic interests shape immigration policies and outcomes? Are there limits to such determination?

Here it was assumed that economic interest in migration varies greatly between different social and political “actors”. Firstly the economic attraction of migration should vary between what Harvey describes as “fractions of capital”: sectorial or regional employers that require new or vulnerable sources of labour, on the one hand, and the rest of the employers, on the other (2006). Secondly variance in interest was expected between *capital* and *state* as the former desires “surplus population” to provide available labour at times of cyclical or

seasonal expansion or to contain wage increases in periods of low unemployment, and the state wishes to limit population growth that may require greater institutional planning and resources without making a positive economic contribution to state finances. Finally it was understood that economic motivations vis-à-vis immigration might vary between *employers* wishing to hire migrants and *labour* (non-migrant and earlier migrant), as such workers gain no direct financial advantage from migration and in specific instances may find themselves in competition with foreign labour. The disjuncture in economic motivations described was hypothesised as being an underlying source of contradiction in policies or between procedures and their implementation.

However, a sub-hypothesis advanced was that there would be limits to any attempt at causally reducing immigration policy paradoxes to mechanics of a purely economic nature. As well as policy and outcomes having an economic “base” – to use Marx’s term, it was expected that they also would be shaped by what Marx termed the “superstructure”: the legal, bureaucratic and political institutions of the state and sub-state, in other words the *institutional-political and administrative spheres*.

2) To what extent and how do nation-states and nationalisms shape the contours of immigration policies and politics?

This secondary question is founded on a series of ideas regarding the dynamics of the modern state and politics, which shall be outlined as follows. To begin with, public institutions govern through a combination of coercion, including the threat and sometimes exercise of violence through juridical, police and military bodies, and “hegemony” – or political leadership, with hegemony making it easier to apply force and vice versa (Gramsci, 2007). Coercive management dominates the state’s relationship with those from outside the state’s borders, as exemplified in migrant detention centres and high-technology fences and patrols on Europe’s southern borders.

The second form of rule was understood to play a more dominant role in the state-population relationship within state borders (particularly in liberal democracies). The popular legitimacy required by the state to exercise “sovereignty” – including enjoying the monopoly of violence – is gained through several routes – both material and immaterial. These include the state or sub-state providing a degree of political and sometimes social rights for subject-citizens and – crucially for the purposes of this study – denying the same rights to “outsiders” (Soguk, 1999). This is linked to an *idea* of citizenship, which itself is linked to the idea of

belonging to (or being excluded from) a national community – something itself aided by the production of national mythologies and the Othering of foreigners contained in them.

The self-conception of being a national-citizen has emerged organically from the social relations that have developed around trading and production networks, which require unified administrative and linguistic systems, and spread through inter-state conflict (including colonialism). However such consciousness has also been promoted by ruling classes as an abstract communitarian identification politically preferable to that which could emerge around social class or other identities. This is performed through dividing the population between citizens, who are included within the nation-state, and foreigners, who are ineludibly excluded. Immigrants too must suffer exclusion, particularly because they normally are the most visible representatives of foreigners. Because they are inside state territory and often have contact with non-migrant citizens, their exclusion requires at least a degree of misrepresentation and even demonization of migrants – as is performed by the state, politicians and the media.

It is expected to find that the permanent process of national construction (or reconstruction) by existing states such as Spain (and the more complicated process of forging a common European identity) encourages state (or EU) restriction of immigration, leading to collisions with the interests of capital and feeding contradictory policies and/or gaps between policies and implementation. At the same time, because there is an underlying unity between the drives of the nation-state/sub-states and capital, stimulated by their mutual reliance and global competition, it can be anticipated that paradoxes will remain within certain bounds unless they directly benefit the accumulation drive.

The importance of national construction through related processes of citizen-inclusion and migrant-exclusion is envisaged to be relatively strong for the Spanish state due to the historic weakness of its centralised national project and the existence of strong alternative national identities in Catalonia and other territories (see 4.1.2; Pastor, 2012). It is also anticipated that because of Catalonia's combination of statelessness, relatively significant institutional autonomy, and generally civic local nationalism, its government and municipal authorities will give greater emphasis to policies that incorporate migrants into the national identity (including learning the Catalan language), and that such concerns may override developing policy mainly in relation to labour-market interests (4.1).

3) Are immigration policy processes shaped by electoral politics in substantial way (as opposed to being mainly determined by political economy – including of states)?

My previous research indicated that there were not strong material reasons for the majority of Spaniards to oppose immigration (1.2.2). Furthermore the 2000-2001 events suggested that elites promote anti-immigrant attitudes in society, as opposed to just responding to them (1.2.1). Together these observations undermine any thesis that sees policy contradictions as simply being forged by the conflict between capital interests and voter preferences. However this idea leaves unanswered the question of how much party politics influences dynamics and what is the relationship between party politics and political economy.

4) Is multi-level policymaking a factor in policy gaps and political tensions? To what extent is this so?

It was hypothesised that disparities between policies and outcomes would, as Rius-Sant suggests, also be shaped by policy being designed and implemented at different overlapping territorial levels: those of Europe, Spain and Catalonia (1.3). Each territory has different economic, labour and political dynamics and therefore logically different immigration requirements. For instance, before the crisis most European states preferred a policy of “zero economic migration”, as demand for extra sources of labour seem to have been met through mobility within the Schengen area, family regroupment around earlier migration networks, and/or skilled foreign-hiring schemes. In the same period Spain required substantial “volumes” of labour from new sources to work in certain employment sectors (see 4.2 for more details). Therefore the question arises as to whether Spain’s inability to implement most migratory controls was a deliberate solution to the contradiction created by its European obligations.

Secondly it is expected that tensions over immigration policy between Catalan and Spanish policymakers will exist because of diverse labour and political requirements across their respective territories. This, it was deduced, would be intensified because of growing political conflict between Barcelona and Madrid. Because it was expected that paradoxes could be explained in terms of domestic (intra-state) political economy, it was not clear when embarking on this study whether inconsistencies linked to multi-level policymaking would play a central role in the emergence of policy gaps.

5) How is policy created in practice? Who are the main actors in its design and implementation? What alliances are formed to influence policy?

The expectation was that, alongside government, employers would play a major role in policy processes – as a result of their normally dominant role social relations. Sectorial lobbying by employers would influence policy processes, but within an overall political-economy framework that cannot easily be over-determined by such. It was assumed that the state could not be as reduced to being the elected government and that top civil servants of different varieties would significantly shape policymaking and its practical implementation. Migrants are active subjects shaping processes, however their agency is undermined by juridical, political and financial limitations. Only through social mobilisation would unions, migrants and NGOs have a substantial effect on dynamics. Alliances would be expected between the latter organisations and could occur between employers in certain sectors and governments and politicians (at different territorial levels).

6) How have tensions and paradoxes been influenced by the economic crisis?

It was predicted that migratory-political processes would transform from the period of economic expansion (1995-2007) to the crisis (2007 onwards). There would be more consensus about the attraction – or lack of attraction – of immigration between employers, government and society. Some employment sectors may continue to require flexible, low-wage and/or precarious labour, and therefore continue to be attracted to migrant labour. In other economic branches demand for migrant hiring might stop completely. It was expected that “autochthonous” workers and unions might be more likely to equate migration with competition for jobs and services – particularly after the introduction of austerity measures (beginning in Spring 2010).

The study centres on Catalonia but also Spain, as it was clear from early on in the study that the immigration issue in the former territory can only be understood in relation to the latter. The time frame chosen begins with the Spanish state’s first comprehensive immigration law in 1985 and the year in which I performed a series of interviews for this research. The mentioned period includes the whole time in which large-scale immigration from poorer world regions became a reality in Catalonia and Spain, and in which immigration policy was created and developed, as well as being one of a great fluctuation in the economy and labour markets. It is a time frame in which the Catalan institutions were used by Catalanist politicians to promote the Catalan language and identity within the Spanish state structures,

but is prior to the attempt by the same institutions to develop state structures in response to mass street protests demanding full independence, which properly began in 2012. Therefore this study is not looking at immigration politics in a period of state formation.

1.5 Research design and methodology

1.5.1 Theoretical considerations and general method

With regard to research methodology, I adopt what Marsh and Stoker would categorise (in broad terms) as a (critical) “realist” perspective – meaning that I hold that a social reality exists separable from people’s interpretations but that the observation of this reality is mediated by the views of those observing and those observed – an approach contrasting with the positivist approach that maintains that social scientists can and must remain “value free” (Marsh & Stoker, 2002; Furlong & Marsh, 2002). Such an ontological and epistemological perspective encourages openness regarding whether to use quantitative or qualitative methods or some combination of both²⁵.

There are several reasons why I chose to use qualitative methods – interviews – as the main way to access information. Firstly, quantitative methods have a practical limitation in relation to studying the immigration field. Research on related policy in Britain has pointed out the weaknesses of immigration statistics – describing these as being “fragile” with “many aspects” that are “considered inadequate” (Somerville, 2007: 6). My previous research, which looked at the phenomenon of illegalisation of migration in Spain included secondary examination of studies using statistical databases, led me to be aware of the pronounced difficulties with obtaining data related to the questions posed for this study. Available official Spanish and (even more limited) Catalan figures would be limited and I did not have available the resources to do large-sample quantitative surveying – even assuming this would be the most effective route to gaining the knowledge I was interested in. This view was confirmed by the literature review performed for this research which revealed big discrepancies regarding figures and patterns of migration from one institution to another (see 4.3.1). This was influenced by the difficulty in monitoring real levels of residence due to widespread irregularity.

Qualitative methods and more specifically semi-structured interviews were chosen as the main route to knowledge of the study presented here. There were several reasons

behind this choice. Firstly by looking at immigration policy gaps such as related to irregularity I was investigating the distance between formal claims and procedures and their outcomes, which requires going beyond official facts and figures to the *unofficial*. This encouraged me to choose to talk to key people in and around policymaking processes and trying to “tease out” awkward facts.

“Insiders” and well-placed “outsiders” also can provide their own analyses of *how* and *why* processes happen, which is a central goal of this research. They provide relevant subjective appreciations on the role of their organisations and others in policymaking (aiding clarifying the alliances and balances of power that exist between stakeholders beyond formal appearances). Also, as Garcés-Mascreñas writes regarding a similar method of questioning “key stakeholders”, this allows, “capturing nuances in policy outcomes and effects unusually lost in the written documents” (Garcés-Mascreñas, 2012). By mixing relatively open interviewing (using relatively open questions) with a selection of interviewees based on the criteria of these being it was aimed to obtain holistic views of processes (in which attitudes and behaviour identified as taking place in a particular context) for a study aiming at helping generate holistic theory. These considerations made the methods chosen more attractive than positivistic forms of inquiry that tend to lead to over-simplistic and fragmentary analyses (even if – on the positive side – guaranteeing a degree of reliability and replicability; 2012).

I chose semi-structured interviews instead of more-controlled alternative qualitative methods such as using questionnaires because, first, I was aware (from my experience of living in Spain) that some of the main topics I planned to discuss (“illegal” immigration, policy tensions, xenophobic politics and the Catalan national question) are sensitive or controversial or both and I wished for both myself and interviewees to have a degree of flexibility in how to manage the research conversation.

Furthermore, the question addressed in this research is broad and no doubt would require me learning a great deal on domestic policy processes and policy – because my scholarly background in this area was limited. I consequently opted for a freer (and not highly structured) methodology that would enable to research to be exploratory. Achieving this objective also would be facilitated by the interview format because it allows being able to check details with participants (Devine, 2002).

The form of practical investigation I chose – which Lofland and Lofland describe as “guided conversations” – had the final associated advantages of being a well-known technique that likely would be familiar for the people I interviewed as well as a method that should facilitate openness as it is closer to professional conversation than other sub-methods

(1995). I also calculated (correctly – it proved in practise) that it would make it relatively easy to carry out with key policymaking participants with busy schedules.

I was aware that the chosen procedure also has shortcomings. It is based on small samples and has an interpretative leaning that in both cases undermine reliability of findings. It tends to be better at activating short-term memories, and can be “hijacked” by interviewees wishing to dominate the discussion agenda. It was decided to bear these limitations in mind, complement the spoken accounts with both a thorough examination of the literature, and to compare findings with statistical data (from CIS, the National Research Institute, and various official reports) and primary policy sources (Hansard – BOE – or Spanish legislation). This meant – following Read and Marsh’s useful guidance – rejecting the “false dichotomy” between quantitative and qualitative ontology and epistemology (2010).

1.5.2 Interview planning

In Spring 2010, a year before carrying out the interviews, I took trips to Barcelona to participate in an immigration workshop and individually meet specialists on migration, policy and labour markets, with whom I was able to discuss my initial research ideas. Later I would interview two of those for my final research – including a scholar that had performed research on Spanish policy and irregular migration and who shared valuable insights on the practicalities of researching these areas. In the informal meeting I was given recommendations and contact details for key insiders I could interview.

I lived in Barcelona in the nine months before carrying out the interviews, and during that time I presented my more developed plans in a seminar of the Interdisciplinary Research Group on Immigration (GRITIM) at the Pompeu Fabra University (UPF). I gained new and valuable perspectives on Catalan immigration politics talking informally but regularly with representatives of North African, Latin American, Roma and Catalan organisations in the UCFR anti-racist and anti-fascist network; and attending several migration-related conferences and seminars in Barcelona. (Practical details of the meetings described are provided in Appendix 9.2.1)

From the discussions I had at these events and meetings (and others with supervisors) I decided to attempt a case study of Catalonia. I considered doing a comparative study between the territory and Andalusia – as well as Catalonia – due to the two ACs being contrasting in terms of wealth and national politics. To examine this possibility

further I attended the I International Congress on Migrations in Andalusia in Granada in January 2011. However, this experience (and previous discussions with migration specialists) convinced me that it would be more useful to do empirical investigation in Madrid – where most Spanish policy design and consultation takes place – and the idea of performing a comparative study of two regions was discarded.

To choose the sample for the interviews I adopted a “purposive” approach. My priority was to gain rich material in order to develop an initial appreciation of the mechanisms that produced policy paradoxes. Therefore my main concern was to gain access to those in a *privileged* position to elucidate processes, rather than seek to obtain “random” or “representative” samples. I felt it was important to talk to people involved in policy design or consulting processes, and also to those observing such process from the “outside”: researchers on policy and policymaking and migrants’ rights activists whose political activity is normally extra-parliamentary. I was interested in knowing the roles and views of the unions and employers’ associations. I was also interested in finding out the more minority (and possibly more critical) views of other organisations involved in policy processes. My pre-interview ‘prospections’ identified that a Spain-wide Economic and Social Council (CES) had played a role in developing migrant labour policy under different governments and I ended up interviewing several members of the Council from different social groups and organisation.

I chose not to try and interview those at the top of the policy hierarchy: ministers or Immigration secretaries. This was partly because I expected that due to their official positions, they would be less likely to be open about policy inconsistencies and related matters²⁶. Priority was given to obtaining in-depth and (if necessary) long interviews. With regards to number of interview sessions, I followed Kvale’s guidance of interviewing “as many subjects as necessary to find out what you need to know” (2007: 43). (I also asked myself the question whether interviewing a bigger but manageable sampler would have increased the reliability of research results and concluded that this would not be the case). Before contacting anyone I used the ideas I had developed from the literature, preliminary enquiries and my own involvement in the immigration topic to identify the *themes* around which to structure the interviews. This helped me develop interview guides (including main questions and probes) for different sub-groups of interviewee: a basic script for employers, another for policy advisors, etc.

I identified approximately ten potential “privileged insiders” who I thought might respond positively. These were of very different sectors and normally representatives of

organisations. Half lived and worked in Barcelona; the others in Madrid – easing comparison of ideas between Catalonia and Spain. I noted that many were of a progressive (particularly social-democratic) viewpoint and chose to take this into account in interpreting results.

In the email I briefly and somewhat blandly explained the purposes of the study and why I had approached that particular person. Most people responded quickly and affirmatively by email. In a minority of cases, a follow-up call was necessary. Where I sensed the slightest hesitancy about accepting the request, I offered to send the requested interviewee a copy of the questions (and sent these in several cases). In a couple of cases I mentioned that interviewees could see the transcripts if they wished – although none accepted the offer.

I chose to approach some well-placed persons whom I knew personally, assuming that this would facilitate frank discussion. This assumption proved only partially accurate: an old friend that had become a senior advisor for President Zapatero was notably defensive and “político” (meaning propaganda-like) in her responses (for example claiming that cutting funding to integration was “not a change in policy, but to the money allocated”²⁷). A migrant-rights activist who I knew from participation in migrants’ mobilisations provided an overly informal and conversational interview that contained very useful observations for the purposes of the study but included much rambling – complicating transcription.

After reflecting on the findings in the first interviews in both Madrid and Barcelona, I selected and contacted a second sample of people. A choice made at this stage was to try and hear the views of those not involved in official processes, because participants from very different organisations involved in policy processes shared a lot of consensus on policy and it seemed possible that their participation in institutional frameworks had shaped their individual views. (For further practical details on the interviews see Appendix 9.2.1)

1.5.3 Interviews

I performed long interviews with fourteen people between 24 May and 5 August. All meetings were in the Spanish language. In ten cases the interviews lasted an hour or more. To prepare for them I developed a template guide structured around my research sub-questions. This was adapted for different typologies of interviewee (employer, advisor, etc.) but also “fine-tuning” were performed for each individual interviewed – bearing in mind the knowledge I had of her/him and her/his organisation. Considerable adjustments also were

made based on previous interview experience. I did several things to facilitate a flowing exchange. First, I travelled to the interviewees' place of work, which I did during two trips to Madrid, and in alternating sets of interviews in Barcelona. Additionally at the beginning of the interviews I explained that the anonymity of the interviewees would be respected and asked for permission to record interviews²⁸.

Third, following the procedure suggest by Nigel King, I systematically began the conversations with non-threatening factual questions – on the interviewee's role in relation to policy processes and on immigration flows (2004: 17). Views on more sensitive topics were planned for the second half of the interviews but more frequently were elicited when I perceived they would be a “natural” progression in exchanges. Sometimes the interviews became near-conversational – a development I chose to allow because my evaluation after the first two recorded meetings was that this had been conducive to normally producing frank, revealing and informative interviews. Two full transcriptions of interviews that I believe have these qualities are included in Appendix 9.3 (and I believe illustrate my general research technique). The interviews involved firstly eliciting details about policy and policymaking dynamics and personal assessments on related agreements and tensions, high levels of irregularity, the impact of competing national projects in Catalonia and Spain, and other areas relevant to the research aims.

With regards to researcher “positionality”, at the beginning of the empirical process I was concerned that rapport might be inhibited because of my “outsider” status (as a foreigner, as a non-policymaker), and this was a factor leading me to choose to adopt a notably empathic (and generally non-conflictive) attitude in all of the interviews. The openness of most of the exchanges I think confirm Corbin Dwyer and Buckle's methodological finding that being an outsider can be managed in ways by which it becomes an advantage (or at least not a disadvantage²⁹; 2009). My questions were basic – partly for linguistic reasons but also because of limits to my knowledge of policymaking processes and institutional politics. While carrying out frequent reflecting on my interview technique I deduced that this simplicity may have helped interviewees feel that they were in a comparatively “safe space” to candidly expressing views that they may have been more cautious in sharing if I were a Spanish peer or alignable with a sector involved in Spanish migration policymaking. The interview reproduced in Appendix 9.3.1 is an example where I think this occurred. Throughout the empirical (investigation, transcription and processing) procedure I sought to be mindful regarding the following aspects to my positionality: a) I was a foreigner from a richer country (and therefore not seen as a migrant – even though I had been a foreign

worker in Spain for many years); b) that interviewees may have been aware of my leftist (and pro-migrant) views from my (Spanish and English-language) public and academic writing on Spain – including high-profile opinion pieces for the Guardian and Spanish-language writing; c) my previous academic, activist and personal contact with several of the interviewees.

Notwithstanding the limited ethical implications of the research, I did take steps to ensure adequate practise in this regard – as well as informed consent. These included gaining approval for my research plan from the ethics board at my university, guaranteeing anonymity of names, as well as the mentioned offer of participants being able to review transcriptions.

1.5.4 Employers

There was one notable exception to the harmonious experience of organising and carrying out the interviews: my experience with employers. A major service-sector firm famous for its large migrant workforce declined my request for an interview. Even more disappointingly I did not manage to get access to the two largest employers' associations (the Spanish Federation of Employers' Associations, CEOE, and the Spanish Confederation of Small and Medium-sized Enterprises, CEpyME) despite several emails, phone calls and visiting the building shared by both. Because I understood that "empresarios" were a key shaper of processes I continued contacting business representatives but now concentrating on sectoral associations. I ended up doing interviews with the Coordinating Committee for Agricultural and Livestock Farmers' Associations (the COAG farmers' union), the National Confederation of Construction (CNC), and the Spanish Business Confederation of Social Economy (CEPES) – the association incorporating Spain's relatively large cooperative sector.

The pre-interview and interview processes with the CNC representative was strained and uncomfortable. In the first email from the association I was asked for a list of questions, and was informed by the relevant office that I could not ask several questions that were considered to be "political". Before the actual interview I had a long wait in the reception of the CNC headquarters; and my request to electronically record the interview was declined. Accordingly I had to record the contents of the meeting (with a representative of the CNC international-relations team) on a note-pad, which complicated my ability to guide the

meeting. The interview was tense at most stages but particularly when I asked whether there had been disagreements between employers and other organisations during negotiations over a reformed Aliens' Law. The CNC leader responded "I couldn't say. The regulations were passed in 2009 and are included in Hansard on 30th April 2011". I asked for clarification of what was meant by "I couldn't say" ("no puedo decir") and the interviewee responded quickly and with notable annoyance "I mean *no comment* ... The content of negotiations shall remain at the table". This response and others (cited in 7.2.3) contrasted greatly with the friendly and open atmosphere of the other interviews. These observations have been borne in mind when interpreting the findings from that interview (also in 7.2.3).

1.5.5 Interpreting the interview material

The post-interview process was not separate from the interview process. I began transcribing my early interviews as soon as they were completed. This was to help reflect on the success of my pre-prepared guide (questions) and general interview performance and develop my interview technique. This method led to me dropping more-abstract questions that elicited little reaction – such as on whether public spending in welfare provision was a factor in restrictive policies. I also decided to request more clarification of details – using more "closed" questions. I did this despite concern that I would be channeling the discussion overly – as some of the methods literature warns regarding using such question, but found they did not obstruct the flow or openness of interviews and that interviewees adding a great many points that were not asked about (King, 2004: 16).

Transcription takes place "from an oral language to a written language" and I approached it by employing skills learned as a professional interpreter and translator (Kvale, 2007: 93). I transcribed translating directly into English, adopting the criteria of being purposeful – excluding repetitions or "noise" that did not add to meanings – and preserving the sense being communicated in Spanish, which I did by imagining what exactly the speaker would have said had she been speaking in English. I gave each interviewee a coded name to preserve her/his anonymity ("Mr. M", "Ms. T", etc.) – in line with my ethical approach. After transcribing the interviews I identified sixteen repeated conversation themes that were relevant to the research objectives. I then included these as organising categories (column headings) in an Excel document and listed any information related to them underneath. After entering all of the relevant ideas and quotes in the columns, I looked at

whether I could group together themes for chapter sub-sections (which I did with “national politics”, “irregularity”, “policy actors” and “electoral politics”) and structured a first draft of the findings accordingly. In order to not separate statements on the different topics from observations I made on individual actors and their organisations and their relationship within and general attitude towards policymaking, I chose to listen to and make observations on all of the interviews. I did this after writing the first draft of my thesis, including of the European, Spanish and Catalan policy literature and theory on migration and related paradoxes, meaning I could reassess the participant descriptions, interpretations and assessments of policy with greater ability at noticing details and critically assessing findings. Revisiting the interviews also was necessary because many were of substantial depth and richness – reflecting the privileged knowledge and expertise of many participants, and benefited from a second thorough listening. (An example is the transcribed interview in Appendix 9.3.2). On the many occasions in which I felt the background to the interviewee was essential to interpreting her/his words, I include a reference to it when citing them in the dissertation.

1.6 Structure of thesis

As outlined, the thesis is based on three parts: a theoretical assessment, a study of secondary research and literature, and reporting on and analysing the findings from the interviews. At the end the different results are compared in a concluding chapter. The notional examination begins in Chapter Two by analysing attempts by diverse international scholars from neo-institutionalist, embedded liberalist, rational-choice “client politics”, “new-wave structuralist”, Marxist, “third-way” and other backgrounds to analyse policy gaps or contradictions – whether this was their stated main goal or a secondary and even unintentional purpose of their writing. Much of this scholarship is framed in terms of tackling the political failure to control borders (from a variety of normative positions).

In the subsequent chapter (Three) I develop some of the conclusions from the previous review to produce a new initial holistic framework on the underpinnings of immigration paradoxes. This is performed by looking historically and generally at the economics – and is based on a critical reading of a range of literature – mainly although not exclusively by Marxian authors – on the immigration question in general and in history. Because of the way the literature is sub-divided according to academic speciality, the examination is organised (at some risk) by artificially separating economic considerations

(for example regarding the evolution of labour mobility and its theorised impact on the conditions of local workforces, or the positive and negative ways by which immigration is perceived from the perspective of generationally and daily reproduction of labour power) from political understandings (such as regarding the emergence and development of the nation-state and related ideologies and their impact on borders, control and immigration or the possible impact of immigration on states' role of regenerating social relations).

After presenting this first – mainly abstract – response to the stated research question(s), the thesis progresses more concretely and empirically. A detailed background to the case study is presented in Chapters Four and Five. Because, as will be posited, the contradictions in immigration policy and politics are based on what could be described as “big” questions related to society, power and ideas, it is necessary to seek to contextualise this case study carefully. Chapter Four therefore provides an outline of the general politics and economics of Spain and Catalonia in the (post-1977) democratic period, paying special attention to national considerations. Then the evolution of the “new immigration” is analysed using demographic and other quantitative data on the residence, legal status, regional origin, sectors of employment, and other features of the “new immigration”. This is to be able help evaluate policy outcomes and their motivations. Much separate data on both Catalonia and Spain is presented here in order to be able to make comparisons in later sections.

Chapter Five on immigration policymaking and policy builds on the secondary findings presented thus far. As well as providing key context to the research by identifying how the ways of designing policy and its formal results have evolved at three territorial levels (EU, Spanish and Catalan), and how multi-level policy interrelates and sometimes collides. This analysis allows developing some initial conclusions about the (complicated) relationship between the EU and member states with regards to migratory questions. The advances and frustrations of Catalan policymaking with regards to immigration is analysed, and the territory's focus on integration is outlined in some detail. These tasks are carried out to help develop interpretations made later as to why some tensions have emerged over immigration between Madrid and Barcelona and what these might reveal about states attitudes to migration in general.

In the whole chapter I take advantage of the very many direct observations and meditated ideas offered by interviewees on the policy processes they are involved with or relate to. The result is a hybrid chapter including both contextualisation *and* presentation of findings. It must be highlighted that the participant views on policies and processes included in this chapter are mostly limited to official procedures and formal outcomes – although an

examination of what different statistics and migration studies say about irregular entry and residence in Iberia is included here.

Sections Six and Seven present interviewees' insights related to underlying political dynamics and policy *in practice* in order to develop a more multi-faceted and sophisticated view of immigration policy and politics. Chapter Six presents the views of interviewees regarding the real relations between the EU, Spanish and Catalan institutions, dissecting some surprising findings on the exact form by which Europe guarantees management of its Iberian border, and how the PSOE government have responded to this. Findings on the irregularity paradox and its causes and regarding policymaking tensions related to national-cultural considerations for Catalan and Spanish policymakers are analysed. Whereas the migration literature on Spain analysed in Chapter Five was richer on the Aznar period of government, the interviews centre more on the later era of Socialist government (2004-2011) –perhaps also encouraged by the tendency in qualitative research for participants to focus on more recent experiences. They provided an account – included in Chapter Seven – of how large-scale regularisation developed in new ways that maintained problematic migrant dependencies.

As the dissertation progresses the different statistical and qualitative findings are analysed in relation to the previous theoretical and contextual conclusions. This allows progressively answering the sub-questions outlined in 1.4. This process is completed in the final chapter (Conclusion – Chapter Eight), which provides a straightforward answer to the main research question on the dynamics behind immigration paradoxes such as in relation to the high levels of irregularity in Spain in the 2000s, and suggests possible lines of related research.

¹ These polls (“barometers”) are performed by the Centre for Sociological Research (CIS). In December 2006, coinciding with a peak in arrivals of clandestine migrants in the Canaries, the CES found “immigration” was identified as the top problem by 17 per cent of those surveyed. Yet when asked about problems “personally affecting you” the proportion that gave the same answer fell to 5 per cent (Centro de Investigaciones Sociológicas, 2006: 5).

² Sections of the media linked both attacks with refugees arriving in Europe from the Middle East.

³ The term ‘Spain’ is used throughout this study with reservations. Because of the plurinational nature of the territory and the political drive since 2012 for Catalonia to gain independence, many Catalans and others prefer to use the term ‘Spanish state’. However, because of the attention given in this study to state structures as actors the use of the latter term can lead to confusion for a reader less familiar with Iberian politics, and “the Spanish state” is used only occasionally in this dissertation.

⁴ According to the National Institute of Statistics, Spain had the lowest birth rate in the world in 1998: 1.07 children per woman of fertile age (Cañas, 1999). By 2003 it had risen to 10.5 and continued rising afterwards. Some of this recovery has been linked to higher birth-rates among immigrant women.

⁵ In the 1990s racist murders of migrants by far-right supporters also had taken place (Rius-Sant, 2007: 107-8)

⁶ “Presidente” can also be translated as President.

⁷ Later employers managed to undo some of the concessions migrants gained by replacing North Africans with other nationalities (see 6.2.3.4).

⁸ A survey found it was common for farmers to rotate employers after a period of months. This was partly to reduce the risk of legal responsibilities related to the pesticides used (Martínez-Veiga, 2004: 127). Due to Almería’s normally high temperatures, greenhouses could reach 113 degrees Fahrenheit (Calavita, 2005: 71).

⁹ Aznar, for instance, claimed, “[i]mmigration and terrorism not properly dealt with have generated radicalism” (Calavita, 2005: 137).

¹⁰ “Flood” is the translation used for “oleada”, which could also be translated as “surge”. An extreme example of this inappropriate language is an *El Mundo* headline (published on 19 August 1996) for a story on 23 people attempting to cross the Straits of Gibraltar to Spain, which described the tiny group as a “flood of Moroccans” (Nash, 2005: 50).

¹¹ The breadth of the role in labour markets of irregulars was summed up in a call and response chant by migrants on a demonstration I attended in which the leader asked who performed a series of labour functions (“who picks the lettuce?”, “who cleans the houses?”, “who washes the dishes?”, ...). On each occasion the answer shouted in unison was “sin papeles, sin papeles” (“the undocumented”).

¹² In this dissertation I use speech marks around the terms “legal”, “illegal” and other derivatives when referring to unauthorised immigration. This choice is motivated by it not being clear that unauthorised migration is a criminal offence in itself as opposed to being an administrative fault – however much irregularity is treated politically as if it were a crime. It is also encouraged by the desire to avoid using loaded vocabulary referring to migrants – as commonly occurs in media, political and (occasionally) academic treatments.

¹³ The clearest exception to this is Calavita (2005).

¹⁴ The Spanish Constitutional Court later ruled the measures anti-constitutional and overturned them (5.2.2.1).

¹⁵ The study also confirmed that resistance to immigration grew progressively from 2000 to 2007 but particularly between 2000 and 2002 – the period of legislative reform and conflict identified in 1.2.1 (Cea-D’Ancona, 2010).

¹⁶ The contract proposed was similar that introduced by French President Sarkozy in 2004 (Garriga & Bárbulo, 2008).

¹⁷ While performing the research presented in this dissertation I encountered strong evidence of high levels of irregular employment in the construction sector that possibly would have had a significantly greater disciplinary effect on wages and conditions than envisaged in the 2010 study (see 4.3.1.2 & 7.2.3)

¹⁸ There were other influences: the emergence of a new middle-class employer market for domestic services, which exercised a downwards pressure on wages, and low levels of unionisation (Stobart, 2010). At the same time, these factors could themselves have been encouraged by the precarious legal position of migrant domestic workers.

¹⁹ The party's leader at the time, Josep Anglada, gave speeches calling for the expulsion of all North Africans from Catalonia and has used extreme racist descriptions of Africans (Rius-Sant: 271, 144 & 145).

²⁰ Marta Ferrusola – wife of Catalan president Jordi Pujol – predicted that in the future “[traditional Catalan] Romanesque churches will not be of use but mosques will” (Santamaría, 2003).

²¹ In 2010-2011 in Salt (Girona) the following took place: North Africans demonstrated against being criminalised, non-migrants did a Town Hall protest opposing “migrant delinquency”, and migrants rioted after a young Moroccan died in a police chase (Garcés-Mascreñas, Franco-Guillén & Sánchez-Montijano, 2012: 269; Rius-Sant, 2011: 156-163)

²² The Niqab is the Islamic headdress covering much of the face. The cities and towns applying bans included Lleida, Tarragona, Reus, El Vendrell, L'Hospitalet and Barcelona (Burchianti & Zapata-Barrero, 2012: 11)

²³ In this thesis the term “amnesty” is usually presented in speech marks due to the same rationale applied for words deriving from the word “legal” when applied to immigration: to avoid suggesting that irregular residence is always a criminal offence.

²⁴ Anderson and Ruhs provide a useful discussion on the need to reject seeing irregularity purely as a negative phenomenon (2010.)

²⁵ Whereas a positivist worldview lends most easily to using statistical methods, and an interpretist approach tends to limit itself to qualitative techniques (Marsh & Stoker, 2002).

²⁶ This decision was reinforced by the expectation that there would be much greater difficulties in gaining access to elite interviewees such as these.

²⁷ Her reactions may have been encouraged by the two of us having exchanged differences over PSOE immigration policy in the past.

²⁸ These two aspects are also standard research procedure in my University. Unfortunately there were difficulties with recording at the beginning of two interviews and some interviewer comments made had to be jotted down from memory after the interview ended.

²⁹ Alternatively it could be maintained that on some levels I was an “insider”. My fluent Spanish, which has allowed me to work as a professional interpreter, suggests that I have lived in Spain for many years. Furthermore, like myself many interviewees had studied migration and none were foreigners from poorer regions.

Chapter Two

Migration literature on policy gaps; general theories

This chapter examines the scholarship either directly on immigration paradoxes or on migration politics more broadly conceived where contradictory dynamics and outcomes are tackled. Correspondingly, it is divided into two parts: firstly, a discussion of the migration-studies literature on “why states accept unwanted immigration” and secondly, an examination of different immigration-politics models. In the first half (2.1), the analysis begins by critically assessing the literature that identifies irregularity as originating from organised “interest groups”, which are said to distort democratic political decisions. Literature that treats irregularity as an outcome of the clash between voters’ and employers’ attitudes towards immigration is also considered. The study then moves on to theories that see policy paradoxes as a consequence of the liberalness of either states (in particular their constitutional, legal and bureaucratic frameworks) or the global agreements and institutional frameworks that emerged as the twentieth century progressed. In order to better understand the psychology behind states wishing to counter the liberal tendencies in modern states and international institutions, some (politically conservative) normative writing is briefly evaluated.

The second half of the chapter (2.2) is sub-divided into assessments of two general analyses of the politics of migration by liberal (or liberal-Foucaultian) scholars: James Hampshire and Christina Boswell. More structurally inclined studies are then reviewed. These begin with those that locate irregularity and other “gaps” in relation to the conflict between a contemporary process of globalisation and an older state system, or treat them as being functional – even deliberate – attempts at legally conditioning the large-scale migration that manages to overcome borders and controls. Lastly, David Harvey and Gareth Dale’s linked but differing attempts at a materialist analysis of the immigration issue are critically assessed.

2.1 The debate on “unwanted immigration”

2.1.1 Assessing the “client politics” approach

Like many other migration scholars, Gary Freeman believes that liberal democracies are “broadly expansionist and inclusive” (Garcés-Mascareñas, 2012: 27). Yet by adopting a “rational choice” approach, Freeman maintains that liberalisation depends on the degree to which liberal political frameworks are “captured” by organised “interests” (sometimes described as “civil society” associations, Freeman, 1998). In particular these include “powerful economic interests” that

press for ready access to cheap and plentiful labour and support policies that fuel population expansion, real estate development, and consumer growth. (ibid: 103).

Wilson describes how seizure by civil society is possible:

the exigencies of collective action favour the organized recipients of concentrated benefits over the non-organized bearers of diffuse costs. Not the uniformed, non-mobilized, and tendentially reductionist public, but the expansionist ‘organized public’ of employers, ethnic groups, and civil rights advocates comes to shape immigration policy in liberal states. (Joppke, 1998a: 16.)

Freeman summarises this position as costs being diffuse and intangible but benefits, concentrated and tangible (1998). Such a process is encouraged by policy-making taking place in “remote bureaucratic arenas” with “little outside interference” (Joppke, 1998a: 16). The result is “expansionist” and “anti-populist” policies that create a “persistent gap between the policies of government and the preference of mass publics” (ibid; Freeman, 1998: 88). His theory could be summarised as saying that immigration is imposed on society by powerful lobbies such as corporations. Research on European policy-making reinforces such an idea. One study found that increasingly it has been employers that “provide the data and arguments that Western European governments base their economic migration policy design on” (leading to migrants being “welcome as long as they promise to contribute to the prerogatives of a business-friendly national economic strategy”, (Menz, 2009b; Menz, 2009a: 4). There appear to be limits to this, however. It is unlikely that firms would have instigated the substantial immigration “flows” through family reunification, because it would offer little short-term gain (Hampshire, 2013: 46 & 47).

Other studies on Spain, France and Italy and the United States identify other social groups as having driven policy alongside or in place of firms – including migrant and related ethnic-minority organisations (Watts, 2002; Wong, 2006). Watts maintains that in response to “globalisation” unions have abandoned support for entry and settlement restrictions, as well as employer sanctions on irregular hiring, and have joined with employers to ensure greater regularisation and the extension of family and benefit rights to migrants (2002: 1 & 2.) In the case of the three European states, “labor unions have been the driving force behind efforts to change immigration policy”, although “policy outcomes are often compatible with employers’ interests”, leading the author to talk of “a tacit alliance” (ibid: 99). For the same author the labour movement’s general approach towards immigration has “changed indelibly”, spurred fundamentally by the declining sovereignty of nation states (see 2.2.3.1??) and the associated calculation that removing legal barriers to social rights was required to avoid the emergence of a secondary precarious labour market that could expand into the remaining employment segment (ibid, 2002: 1, 2 & 101.) This was specifically important in Spain (and Italy) because of their strong underground economies (ibid: 9).

From research on the US, Wong concludes that only pressure by churches and pro-migrant social groups (including Asian and Latin American associations) can account for the preservation of “liberal family-based policies” (Wong, 2006: chapter 5). However, by also acknowledging that large numbers of Mexican American voters in certain constituencies had an impact on political decisions, she somewhat weakens the case for direct lobbying playing the key role in shaping processes (ibid: chapter 6). Sassen points out, however, that political pressure from such groups is weaker outside the US (1996: 12).

Other migration scholars reject Freeman’s model. For instance, Brubaker and Pelmutter reject Freeman’s “client” model as being too generic and fitting much better the English-speaking settler countries than most European states (with the exception of Spain and Italy, according to Cornelius and Tsuda, 2004). In Europe, pro-immigrant lobbies have been weak and anti-immigrant parties have encouraged governments to be “chronically populist” (Joppke in Hampshire, 2013: 42-44; Cornelius & Tsuda, 2004: 11 & 12; Joppke, 1998a: 16-20). In France the growth of anti-immigrant politics has influenced employer and even union policy (Watts, 2002: 10, 82, 112 & 113.)

The impact of electoral politics will be returned to, but for now it suffices to say that Freeman’s model proves in practice to be one-sided and territorially limited. Boswell theorises as its central weakness the model of politics it assumes. In particular,

[m]issing entirely are the state actors who actually make policy – legislators, civil servants, government advisors, etc. The state appears merely as a conduit or broker between conflicting interests – a passive mechanism. (Boswell, 2007)

Analyses of the state are incorporated fully into the present discussion in 3.2 and Boswell's alternative political approach to immigration assessed in 2.2.2, but we can anticipate here that she critiques client politics by arguing that a core imperative of "liberal states" is to "secure the conditions of capital accumulation" – in the current context making "immigration policy ... part of a much wider competitiveness agenda". Therefore, lobbying, if we apply this approach, would play a secondary role in reinforcing the harmony between states and the accumulation process, rather than be the fundamental shaper of processes.

A related problem is why capital as a whole would allow policy making to be affected and even effectively "hijacked" by minority "fractions" of civil society. Claiming that the costs of immigration are diffuse and intangible suggests that institutions with a broad functional purpose (such as governments, employers' organisations, political parties and political "think tanks") cannot and do not produce quantitative or qualitative research to ascertain such effects – at least to an operative degree. This is a supposition that is difficult to defend. Anti-migration "think tanks" have gained prominence in Britain and the USA in recent years.

Freeman also alludes to the non-quantifiability of the costs of immigration – such as when describing the difficulty in measuring the impact of immigration on neighbourhoods, yet there are also substantive *immaterial* benefits of immigration that are equally hard or harder to measure (such as migrants' artistic, culinary, linguistic, political and moral contributions to the "host" society; their prominent role in technological and business innovation; and contribution to eroding provincial attitudes and prejudices; Legrain, 2006b.) Nonetheless, a strength of the specific "rational-choice" model advocated by Freeman is that it incorporates agency into processes and treats political economy as dynamic and living. Employers have always combined with other employers and sections of "civil society" to encourage policy-making that strengthens their own competitiveness, and such processes are a factor in policy making (even if subsidiary). But the crucial alliances also involve state managers and politicians, who are not passively instrumentalised but active agents themselves. Therefore, agency cannot be located purely in the sphere of civil society (Harman, 2009: 109; see 2.2.3.3).

Related views on voters as drivers of restriction

A common rationalization for the irregularity paradox is that firms' interest in cross-border mobility collides with the wellbeing or *perception* of wellbeing of the majority of the "host" population. This clash is "resolved" by allowing gaps to arise between formal and real or applied policy (Cornelius & Tsuda, 2004.) This idea is fed by the assumption that the general population are naturally more hostile to immigration than elites. A relatively sophisticated multi-dimensional model of immigration politics (Hampshire's as discussed more fully in 2.2.1) recognises the role of media and political elites in forming public opinion¹ – in other words that the relationship between official attitudes and public opinion is *bi-directional*. However, Hampshire repeatedly presents the democratic process as driving restriction, and treats public opinion fundamentally as more of an independent, rather than dependent, variable – as does other literature (2013; Joppke, 1998a). One of Hampshire's more balanced observations holds that,

in representative democracies, public opinion matters. What the voters of a given country think about immigration influences the kinds of policies candidates for office will propose, as well as the tone of discourse and atmosphere in which immigration is debated. Though political parties do not simply ape public opinion – since they try to shape it to some extent as well – they certainly cannot ignore it. (Hampshire, 2013: 5, 6).

This view seems incontrovertible. Governments have been shown to be led by voter opinion on migration. An example is the decision by Cameron's Conservative government to call the 2016 referendum over remaining in the European Union in response to competition from the anti-immigrant UKIP, and whose result at the time of writing is threatening to lead to the introduction of restrictions of European migration to the UK. State policy is not only shaped by economic and governance decisions but by politics at many different levels.

Hampshire on this occasion offers a nuanced attitude, yet elsewhere he is simplistic and even alarmist, maintaining that only liberal constitutional regimes can defend migrant rights from the "tyranny of the majority" (ibid: 45). There is a danger in over-simplifying the relationship between electorates and both governments and (particularly) states. In the first place, there are many examples of governments patently ignoring strongly held public opinion. These include the preparations for and final decision to launch the 2003 Iraq war or – more specific to Spain – the Rajoy government ignoring the 80-90 per cent of the

population backing the demands of the PAH housing movement to radically reform mortgage law and stop widespread evictions (Colau & Alemany, 2013: 9, 39 & 40.) Such cases raise the question as to why governments are sensitive to popular opinion on some matters more than others.

What increasingly is described in British political and media circles as “listening to voter concerns about migration” may be a pretext for the political encouragement of anti-immigrant sentiment and may or may not reflect voter sentiment. There have been many cases of politicians expressing non-respectable xenophobic or racist ideas by claiming to represent the views of their constituents. A notorious example was when shadow British cabinet minister Enoch Powell attempted to link his extreme 1968 “rivers of blood” speech – a wild prediction of the likely consequences of continued Commonwealth immigration into Britain – with what “thousands and hundreds of thousands are saying and thinking” (Seymour, 2010.) Powell’s popularity after he was sacked from the shadow cabinet, evidenced in strikes against the immigration he denounced, suggests that some sympathy towards his ideas existed (Hampshire, 2013: 18). However, there were no strikes before his speech and it has been recognised that anti-migrant attitudes were given a great boost after the episode.

It is likely that the formation of ideas over migration is more influenced by elites than by the majority. Spanish and international authors have identified both empirically and theoretically how institutional politics and the media influence general attitudes (Sivanandan, 2008: 66-79; Martínez-Veiga, 2011: chapters 1 & 2; Rius-Sant, 2007, 2011). The background to this research, outlined in 1.2, suggested that between 2000 and 2004 the Spanish government helped shape negative public opinion towards migrants. Furthermore, a study by Nash of Spanish media discourse discovered that an overly negative view of migrants was provided in newspaper coverage (63 per cent of which was negative in 2000 and 14 per cent positive, 2005: 153). She discovered that this fed the idea of immigration being an issue of exaggerated proportions,

“constantly trickling images, together with their inclusion in news headlines represent a powerful mechanism of belief transmission that distorted in the 1990s any assessment regarding the volume of immigrants in Spain” (ibid: 48.)

Hampshire’s emphasis on treating voter attitudes to immigration as being the independent variable in the government-governed relationship is undermined by statistical analysis the

author himself cites. This concludes that popular opposition to immigration is “sociotropic” – based on perceptions of the economic and cultural impact on society in general – as opposed to “egocentric” – voters’ immediate interests. This suggests that motivations are based less on lived experience than interpretations of this mediated by society’s institutions – such as the media. If immigration is generally perceived as a “problem” this is at least partly because media, political and other elites have encouraged this view.

2.1.2 Contradictory liberalism

Client-politics and voter-versus-capital focuses treat the state as acting passively vis-à-vis civil society (in the broadest sense of the word). Such an approach was critiqued by Hollifield, who made the much-repeated injunction for immigration scholars to “bring the state back in” (2000: 147, 148, 156 & 157)². Similar ideas were voiced by Zolberg, Massey – denouncing the “short thrift” given to “the nation-state as an agent influencing the volume and composition of international migration”, and Portes, who critiques studies on immigration legislation that ignore both “the internal dynamics of the legislative and administrative bodies dealing with immigration” and external pressures on states (ibid: 147 & 148; Garcés-Mascreñas, 2012: 17). Joppke indicates, “[t]here seems to be no significant migration episode, past or present, in which states have not had an active, rather than reactive, hand” – including recruiting, organising and shaping the working lives of migrants – and warns against the common academic focus which sees immigration as being a “challenge” (or an “externally motivated event, with states as passive receivers being forced to respond”, 1998a: 5 & 6).

From the 1990s on, a series of studies were conducted that examined state preferences in relation to immigration policies. Yet in 2013 an assessment concluded that the task posed by Hollifield had been “inadequately realised” (Hampshire, 2013: 2 & 3). In the remaining sections of the present chapter, some efforts made to incorporate the institutions into conceptualising immigration are evaluated. Inspired by Hampshire’s insistence that “immigration cannot be understood without probing into the complexities of modern liberal statehood”, such an analysis shall be completed by looking, in the following chapter, at endeavours to theorise the modern state itself (ibid).

2.1.2.1 “Liberal constraints” on states

While Hampshire cites law – domestic and international – as a major element promoting openness to immigration and “protection” of migrants in policy (ibid), other scholars make it the central component. “The legal system, not civil society, is the key protective institution for immigrants” argues Joppke; “rights” are the key explanatory element in the persistence of immigration in modern-democratic states (Joppke, 1998a: 18; Hollifield, 2000: 164.)

There appear to be two components to such an approach, – described herein as “neo-institutionalist”. Firstly the modern state is assumed here to have a constitutional framework, which shapes and limits government action, spells out citizens’ rights and provides judicial review of government decisions. (Boswell, 2007: 75-79; Hampshire, 2013). Because law was and is founded upon liberal principles it has a universalistic and egalitarian bent that benefits immigrants as an “unintended consequence” (Joppke, 1998a). As an example, all “Western” national constitutions recognise elementary human rights regardless of citizenship. (ibid: 18). For such writers, therefore, rights guaranteed in national legal, administrative and political frameworks form a “liberal constraint” on government.

Secondly, neo-institutionalist writers assume a large degree of impartiality among judges and civil servants in order to act as a counter-weight to illiberal governments and politicians. For Offe, those that administer the law are removed from the political conflict and have different interests to governments and politicians. An alternative view is that practical resistance derives from “bureaucracies” wishing to “standardize operations” and courts wanting to “seek coherence in the application of legal principles” (or be efficient and non-discriminatory; Guiraundon in Boswell, 2007: 83). A sharp distinction is thus made between officials and those involved in political activity.

Joppke asserts that it is not that the combination of professionalism and formal constraints that would prevent all coercion against immigrants but “rather that the institutions and ideals of liberal constitutionalism can be contested and sometimes delimited” (in Hampshire, 2013: 8). Furthermore, any guarantees attained are hard to roll back – or are “sticky” – and benefit from the “gradual expansion over the last three decades of civil and social rights to marginal populations, whether women, ethnic minorities, or immigrants and refugees” (the progressive extension from civil rights to human rights; Sassen, 1996: 11; Hollifield, 2000: 150; Garcés-Mascreñas, 2012: 26 & 27; Boswell, 2007: 79, 80 & 83).

Joppke concludes that “accepting unwanted immigration is inherent in the liberalness of liberal states” (in Hampshire, 2013: 292).

Global rights versus national restrictions

An alternative but related view is that the ability to limit exercising sovereignty over immigration originates not from progressive tendencies within institutional frameworks but from international legal regimes. According to this view, liberalness attains formal practical expression through global conventions, treaties, laws and declarations, which provide universal rights benefiting both citizens and non-citizens – including refugees. This has been described as a “*de facto* regime” (Sassen, 1996: 11). Openness also advances “informally” within domestic frameworks owing to the international hegemony of liberal states (Boswell, 2007: 85). This international dimension has been conceptualised as “embedded liberalism” (by Hollifield), a (global) “human rights regime” (by Soysal and Sassen), or as “ideologies grounded in a transnational community” (by Soysal in Boswell, 2007: 86; Garcés-Mascareñas, 2012: 26). A shortcoming of such an approach is that there are not global mechanisms to guarantee compliance with the rights conferred. However, the existence of legal and political protections do allow NGOs and individuals to make concrete claims through the justice system (Garcés-Mascareñas, 2012: 26). The robustness of early examples of international law, such as in defence of international asylum, is offered as practical evidence of the power of embedded liberalism (Hollifield in Boswell, 2007: 86). Some writers, such as Soysal and Jacobson, argued that “post-national citizenship” would develop over time and that – in the case of Bauböck – this would be an inevitable consequence of economic globalisation. This prediction contrasts greatly with political developments since (Hollifield, 2000: 157).

2.1.2.2 Assessing the liberal-constraint theses

Boswell celebrates that the neo-institutional approach outlined above avoids being dominated by subjectivity and instrumentality (unlike client-politics scholarship). However, she identifies some shortcomings. Firstly Boswell questions the assumption that legal practitioners are shielded from political pressures and have objectives substantially different to those of other administrative bodies (or the dominant politics of the day; Boswell, 2007:

XX). Additionally she points out that Guiraudon's "organisational sociology" does not account for "the origins of organizational capacity to resist the interests of politics" (ibid). More fundamentally she critiques institutionalism for attempting to incorporate societal interests and institutional constraints without providing an adequate theorisation of the state and its "functional imperatives" (ibid).

Regarding the global liberalism theses, for Joppke international norms have "explanatory power" only when they coincide with the interests, rules and institutions within nation-states. Summarising Zolberg's historical findings, Freeman concludes that refugee policies have been "often blatantly tied to foreign policy objectives" (1998: 90). The resilience of international asylum law in the post-war period cannot be separated from the Cold War interests of the US and other Western states, whereby they could demonstrate their greater "liberties" than Communism by encouraging defection from the Eastern block (Boswell, 2007: 86 & 87.) According to the same logic, after the Cold War ended Eastern "defectors" were turned into "economic migrants" (Shelley, 2007: 18). Despite Soysal's belief in an evolving global rights regime (2.1.2.1), the same author recognises that

post-national rights remain organized at the national level ... The exercise of universalistic rights is tied to specific states and their institutions. (Hollifield, 2000: 157)

Human rights frameworks assume citizenship and rely on nation-states for enforcement. They thus can do little in defence of the "illegalised" (Anderson, Sharma & Wright, 2009: 8)

The existence of the United Nations statement for the international protection of the rights of all migrant workers and their families – resolution 45/158 – contrasts with the frequency of rights abuses denounced by Amnesty International and other rights organisations (for Spanish examples, see Amnesty International, 2005 and 2006). Sassen denounces the lack of consistency between the (limited) international "regime" for refugees and the lack of an equivalent for immigration in general, yet the globalisation specialist offers no adequate explanation for this inconsistency (1996: 10). Moreover, the human-rights regime approach (accurately) attributes the relative progressiveness of international legal and political frameworks to the hegemony of liberal states. However, if such states – particularly the dominant power of the US – can play such a determinant role internationally, they also likely have some capacity to overrule or at least not apply global regulation (Boswell, 2007: 86). Indeed there is evidence that "the letter" of global agreements is not

being applied in practice (2007). Such observations led Boswell to argue, “the liberal constraint is what states make of it” (Ibid: 96.)

At the same time, there are national examples of courts using international law to overturn national legislation in favour of migrants, and Joppke’s observation regarding the *possibilities of law* appears to have some grounds (Sassen, 1996: 12; Garcés-Masareñas, 119). It could be added here that political and public opinion is also shaped by liberalism. “Common sense” acceptance of certain abstract liberal principles (such as human rights and rights to asylum and mobility) has been identified as a factor in opposition to application of immigration law (Hampshire, 2013: 50). Such resistance includes growing numbers of local anti-deportation campaigns or refusals by public-sector employees to perform controls of immigration status at work, both of which have taken place even in countries with a strong far-right xenophobic vote such as France or the Netherlands (ibid). Governments and media have found it necessary to encourage the idea that many asylum-seekers are “*bogus*” (or simply “economic migrants”) in order to be able to undermine support for refugees, reject their applications or reduce their entitlements (Anderson, Sharma & Wright, 2009). Governments justify patrolling borders and arresting migrants by presenting such measures as acting against “human trafficking” (or “modern slavery”). In other words they present the denial of the right to movement – often from conflict and persecution – as a supposed “defence of human rights”, resulting in a cynical exercise in neutralising rights through superimposing others. Of course in this case the smuggler would not exist without the border in the first place.

Clearly the formal rights incorporated into liberal political frameworks can clash with governmental strategies and feed immigration paradoxes. National constitutions and global agreements contain formal guarantees that may be used to counter states’ restrictive tendencies. Liberal ideology can also be a factor – for instance in popular resistance to immigration measures. However, there also are indications that formal equalities and rights are acted on selectively by states, and indeed possibly only exist in advanced political form when this has been in the political interest of states – suggesting that state realism underlies formalities. In line with Boswell, it should not be assumed that judges or other leading members of “public” institutions would mechanically implement rights independently of government and institutional prerogatives. Beginning in 2.2.3.3 it shall be examined how social relationships determined by wealth and power underlie and frequently subvert formal political and legal formalities, a process affecting the development, interpretation and application of law.

2.1.3 Culturalism and state borders

If liberal constraint theory focuses on existing political factors promoting openness, the question must be raised as to what drives states to want to restrict immigration. It should be noted here that despite the prominence of debates over migratory control in media and political spheres, theorising their essential dynamics is given relatively little attention in the academic literature – a deficiency that shall be returned to later in this dissertation. In cases where state restriction *is* incorporated in general analyses of immigration politics, little in-depth examination is provided. For instance, Joppke discusses how nations represent the basic units (“communal vehicle”) through which “scarcities” of resources should be distributed, and how this leads states to not spread “rights ... too thinly” (1998a: 7). Mark Miller lists the “maintenance of public order” as one of “a host of valued goals and objectives” encouraging the regulation of international migration (Marfleet, 2006: 10). Curiously, it is basically only normative studies centred on making a case for more restrictive and selective policies (sometimes articulated around opposing a rights-based approach to migration) that lay out in depth the political logic behind migration constraints³.

Authors such as Peter Meilaender, David Miller, Peter Brimelow and Samuel Huntington treat “the nation” as a single “political community” and the prime (if not exclusive) subject of their concerns (Meilaender, 2001: 8; Miller, 2007: 210; Legrain 2009a; Huntington, 2005). Brimelow maintains that the nation “intrinsicly implies a link by blood” – meaning that any form of multi-ethnic immigration “risks making America an *alien nation*” (in Legrain, 2009a: 204). The other writers provide more *cultural* (or culturalist) arguments – even if sometimes these thinly conceal a less-respectable ethnic or racial bias. For Miller, the nation is based on “free association” between people of a specific territory (2007: 210-213) and involves “real continuity between generations” (in Meilaender, 2001: 84). According to this view, the identified “historical community” has ownership of the geographical space in question by having “transformed” it and “enhanced [its] value” (as “embodied in cultivated fields, buildings, roads, waterways, and all the rest”, Miller: 2007: 218).

Such a view exaggerates the national impact of people’s life investments, which are normally very localised. It also ignores the role in developing the states likely to receive immigration played by the labour by people living beyond the state’s borders (for example in ex-colonies or people that have emigrated abroad, Legrain, 2009a: 205). Culturalists treat

the division of the contemporary world into nation states as “natural” or “perennial”, even though such a framework is a relatively recent development in history (see 3.1.2). Their worldview, however, leads them to argue that the nation has a right to apply selective “cultural” criteria when deciding over people’s entry and settlement – based on the notion of states being able to determine their “future shape” (Miller, 2007: 213-217). As a consequence, there is no “unconditional right to immigrate on the basis of the (genuine) human rights of the would-be-migrant, whether freedom of movement, freedom of association, or the right to exit” (ibid). According to this strict framework, potential migrants can only hope they are deemed “needy” enough to be accepted temporarily or permanently by “host” states (ibid.)

Similarly Meilaender argues that because not everyone can be persuaded to embrace the identity and visions of a specific political community, states have the right and duty to control their borders and are even “entitled to craft immigration policies that reflect their own particular national identities and conceptions of politics.” (2001.) Revealingly he cites positively the following defence by an Australian immigration minister of his country’s racist “White Australia” entry policy introduced in 1901:

We seek to create a homogenous nation. ... Is not this the elementary right of every government, to decide the composition of the nation? It is the same prerogative as the head of a family exercises as to who is to live in his own house (Ibid: 23).

He also favourably cites the opposition by US president Thomas Jefferson (1801-1809) to the settlement of persons not of English heritage, who,

will bring with them the principles of the governments they leave, imbibed in their early youth; or, if able to throw them off; ... an unbounded licentiousness ... These principles, with their language, they will transmit to their children. In proportion to their numbers, they will share with us the legislation. They will infuse into it their spirit, warp and bias its direction, and render it a heterogeneous, incoherent, distracted mass. (Meilaender, 1998: 82 & 83.)

Huntington uses comparable arguments in his contemporary appeal to halt the supposed threat to the “Anglo-Protestant” culture of the USA represented by growing “Hispanization” and “multi-culturalism”. He focuses on Mexican immigration due to its large volume and for

allegedly threatening “the demographic *reconquista* of areas Americans took from Mexico by force in the 1830s and 1840s” – by which Huntington imagines a fusing of migratory movements with state conflict. His view thus can be seen as a domestic complement to his infamous “clash of civilisations” thesis on the incompatibility of the “Islamic” and “Christian” worlds (Huntington, 2005: 224 & 225; Legrain, 2009a: chapter 12).

Huntington’s subjectivity and prejudices are exposed by excepting from his concern about Hispanisation post-revolutionary migration of “largely middle- and upper-class” Cubans, which he celebrates for having benefitted US state interests and turning Miami into “an international economic dynamo” (Huntington, 2005: 251 & 252). He compares this (large) population movement with more recent migration from Cuba which he laments as involving people that are “generally poorer, less-well educated, younger, and more likely to be black than earlier”⁴ (ibid). He similarly complains about Mexican immigration being “poor, unskilled, and not well educated”, (ibid: 256). In short, his approach is to use border policy to instrumentally shape American society according to perceived geostrategic interests and class, linguistic and racial considerations. It is impossible to see anything “natural” in what he is advocating.

Huntington and Meilaender’s extreme views are framed as an alternative to present policy on migration. Nevertheless, they can claim significant continuity with attitudes that have determined developed states’ immigration policies until recently. The White Australia policy continued for many decades and was only abandoned in 1973. The 1981 British Nationality Act limited citizenship only to those born in Britain or their children or grandparents, a measure that disadvantaged non-white (and non-English-speaking) migration in a period in which this was increasingly questioned by politicians and media (Natarajan, 2013). Today, migration from mainly white Anglophone states such as North America and Australasia rarely receives negative political publicity of the kind frequently devoted to immigration from elsewhere in the world⁵. Such a selective approach has not been restricted to Britain and its ex-colonies: in the post-war period Germany made it very difficult for foreign residents and their children to become citizens while awarding “blood-based” citizenship to “ethnic Germans” – including the very many people fleeing the GDR before and during reunification in 1990 (Dale, 1999a: 118-121; see 2.2.1).

Hence the culturalist logics discussed should probably be best perceived as reflecting a tendency within state approaches to migration – even if one that has become less fashionable over recent decades. Put differently, *their assumptions are likely to be similar to those that led and – to a degree – continue to lead states to control their borders.*

Reinforcing this interpretation is the fact that economic liberals have used overlapping reasoning on the rare occasions they have tried to justify making international labour markets an exception in their normally rigid defence of free markets⁶. For example, chief Financial Times economist Martin Wolf criticised liberal border policy, writing,

[a] country is not just a set of institutions but also a home. People have a right to decide who enters their [collective] home. (2007).

A further example by Hampshire is provided in 2.2.1. A question that the above conclusion might arouse is whether the lack of visibility of cultural bias in immigration policy is due to “political correctness” or whether other interpretations of this can be offered.

2.2 General frameworks featuring paradoxes

Several scholars have attempted a general theory of immigration politics (or a political economy of the question) that includes – normally as a secondary or incidental objective – accounting for the contradictory drives affecting policy and outcomes or theorising the prevalence of irregularity in today’s society. Below the ideas of some of these identified as interesting and/or useful to study are outlined and constructively critiqued. Authors come from liberal, new structuralist and more classical Marxist backgrounds, and include James Hampshire, Christina Boswell, Sue Ferguson, David McNally, David Harvey and Gareth Dale.

2.2.1 Hampshire’s liberal-paradox model

James Hampshire identifies four generic features of the “liberal state” that he believes shape the “profound tension” over immigration or “combine to produce dynamics of openness and closure across immigration, citizenship and integration policymaking” (2013: 3). The four characteristics are (1) “nationhood” (previous sub-section), 2) “representative democracy” (2.1.1), 3) “constitutionalism”, and 4) “capitalism”. Both 1) and 2) promote restriction, while 3) and 4) encourage liberalisation. Overall Hampshire maintains,

mobilization through majoritarian democratic institutions, often based on claims about the protection of national identity and values, generates pressure for more restrictive immigration and integration policies; whereas employer demand for migrant labour and appeals to universal rights both generate pressure for more open, inclusive policies. (Hampshire, 2013: 3.)

The consequence of this is,

governments of liberal states are pulled in different directions because core activities that they are expected to undertake to secure their legitimacy generate contradictory imperatives for immigration policy. (ibid.)

Whereas for Freeman the practise of “client politics” collides with the interests of government and the state and causes the “preferences” of the “host population” to be “frequently ignored”, here the suggestion is that government plays an active as well as reactive role in nationalist agendas that guarantee state legitimacy (Freeman, 1998: 102 & 103; 2.1.1). The underlying clash is conceived as being between “liberal universalism” and liberal states’ “commitment to the construction and the maintenance of a particular national identity” (Hampshire, 2013: 9). It is explicitly acknowledged that liberal (and illiberal) states are “not ... impartial bystanders in the emergence and maintenance of national identity” and that the state “unavoidably promotes certain [ethnic and national] cultural identities, and therefore disadvantages others” (ibid: 9 & 10). This encouragement takes place, Hampshire signals, through Billig’s “banal nationalism” – the everyday and arguably subliminal promotion of the nation through symbols and representation (ibid: 10).

Hampshire adds to the discussion developed thus far in this chapter that the “contradictory pushes” described have the effect of making governments “muddle thru”, providing different messages and unsatisfying concessions to different constituencies, and passing “paradoxical, even contradictory policies” (ibid: 25-27 & 51). This, he diagnoses, creates the conditions in which far-right electoral politics can grow (ibid: 25-27.)

Because Hampshire assumes that states have a requirement to reflect national identity and nationalism as well as promote them – however reluctantly, he accepts that immigration is always going to be seen as a threat. He then squares this pessimistic view with the acknowledgement that states shall continue to need migrant labour by reclaiming

and generalising the post-war “guestworker” (*Gastarbeiter*) model of immigration applied in West Germany and other European countries in the post-war period⁷ (ibid: 18-20; Garcés-Mascreñas, 2012: 25). This was based on the notion that migrants and their families would not become citizens but would “return” to their countries of origin (Hampshire, 2013: 18-20). The concretisation of this approach was that *Gastarbeiter* recruits (from Mediterranean countries) were denied the freedoms incorporated in the Constitution (Dale, 1999a: 129-133). Until the system was reformed in the late 1990s, foreigners that joined strikes were threatened with deportation, naturalisation was a notably slow process, and migrants’ children had to register as “young foreigners” (ibid). Resultingly first and second generation “migrants” suffered more precarious residence, employment and lives than “citizens” (ibid.)

Hampshire repeatedly praises the much-criticised migration regime for treating immigration as a “technocratic administrative” issue rather than political one (ibid; Garcés-Mascreñas, 2012). He claims – providing no concrete proof to support his viewpoint – that *Gastarbeiter* hiring gained consensus approval from elites and “generated little populist opposition based on ethnic or cultural change”, contrasting this with the immediate political problematization of immigration in post-war Britain (Hampshire, 2013: 18 & 19).

Evaluation of Hampshire’s model

Hampshire’s practical conclusion is highly problematic. Firstly the German migration regime he justifies was based on discrimination, which institutionalised social division and prejudice. Despite notable national shame regarding the holocaust, while the guestworker regime was in place fascist organisations re-emerged and achieved electoral successes (Dale, 1999a: 135). Secondly the system was based on the “myth of return” – as Hampshire himself recognises and criticizes (2013: 19-20). The *Gastarbeiter* settled as a major component of the German society, brought their families, grew as a segment of the population, and gradually gained the rights enjoyed by citizens to become “*de facto* members of the state” (Dale, 1999a). In the 1990s hundreds of thousands of *Gastarbeiter* officially were given national citizenship (ibid). The regime therefore must be viewed as being a failure on two essential counts.

With regards to the purposes of this study the key question is over whether the problems in Hampshire’s policy prescription stem from fundamental weaknesses in his liberal-paradox model. To this end, three issues might be signalled. First, the author treats acritically the requirement for governments and states to embrace nationalism, exaggerating

the extent by which ordinary citizens' promote national identity and preference (rather than this being sometimes or even mainly led by state and institutions such as the media.) and ignoring the historic novelty of national consciousness and nationalism (an issue examined in 3.2).

Relatedly Hampshire also treats nationalism and governments as being spheres *external* to "capitalism" and does not acknowledge a separate (or intermediary) role for the bureaucratic state. As well as the decoupling of nationalism and capitalism being historically questionable (see 3.2.2), he effectively treats political processes as taking place without relation to material ones (or detaches politics from economics). This idea clashes with the most obvious observations on immigration controversies. For instance, a major issue raised in debates on restrictions is the limited public resources – ultimately financial – that exist to respond population expansion through migration (see 3.1.4.2). Because in effect Hampshire treats politics as floating he gives excessive importance to the role of ideas in processes. His vision appears to suffer from a superficial *social and political theory*.

Hampshire's approach leads him to identify immigration paradoxes as a form of "liberal paradox" – using Hollifield's description (Hampshire, 2013: 12 & 13). In other words, fundamentally they are not mainly structurally generated but politically (or ideologically) produced. This issue shall be developed in subsequent sub-sections and chapters, however it must be pointed from the beginning out that research on "illiberal" states found comparable dynamics regarding the formation of irregularity gaps. For instance Blanca Garcés-Mascareñas' comparative case study on policies and outcomes in "liberal" and "authoritarian" states (specifically Spain and Malaysia) found that both forced most migrants to choose to remain without authorisation for many years, despite having the contrasting formal rights regimes (Garcés-Mascareñas: 2012: chapters 3-5).

Despite the criticisms towards Hampshire's framework shared above, his examination does contain some positives. By providing a *holistic* conceptualisation of the "immigration problem" he makes it easier to develop alternative ones through comparison. Even more positively by signalling policy "muddles" as the response generally applied in response to immigration paradoxes he adds another dimension to the analysis thus far. It also is worth noting the association he makes between these muddles and the success of xenophobic populist politics. Dale uses a similar idea to point to how post-War German governments helped resuscitate far-right politics through promising and failing to deliver on rights-less immigration in the form of "guestwork":

[I]n circumstances where the state faces structural constraints on its ability to deliver what it promises. ... [t]he logic of this contradiction is to encourage the rise of parties which are consistently hostile to immigration and ethnic minorities (Dale, 1999a).

Ironically, however, this example undermines Hampshire's normative conclusions.

2.2.2 Boswell and the contradictory functions of “states”

In 2.1.2 Christina Boswell was cited as pointing to the failure by liberal-constraint theorists to weave the politics of the state into its analysis of immigration politics. Boswell then seeks to redress this imbalance by presenting an alternative view, which she describes as “Third Way”. Her point of departure is that government and institutions must perform and be seen to perform a series of functions in order to sustain their claim to govern. Concretely these roles consist of *providing security, guaranteeing accumulation, acting fairly and maintaining institutional legitimacy* – each of which shall be outlined below.

To *provide security* for national citizens the state must address “diffuse concerns about the capacity of states to control their borders and to regulate the residence and employment of [sic] non-nationals” (Boswell, 2007: 89.) This state function may have been reinforced because of increasing associations made between immigration and different threats to security (including terrorism and organised crime). Accordingly immigration policy has become more “securitised” (ibid; Anderson, Sharma and Wright, 2009: 8; Fernández-Bessa, 2008.)

Continued economic growth is required if the state is to preserve popular support. When immigration is deemed to be contributing to this, it strengthens the legitimacy of the government; when it is seen as a “financial burden”, the opposite occurs (Boswell, 2007: 89 & 90; Freeman in Hollifield, 2000: 147). Exercising *fairness* implies the perception that state resources are being accessed by those that contribute to the “community” (see 3.1.4.2), but also – in a dialectical twist – that the state applies “universalistic justice” even when this erodes national protectionism (Boswell, 2007: 90 & 91). Lastly maintaining popular consent towards the state (legitimacy) rests on the effective rule of law, separation of powers and conformity with the constitution (ibid: 91). The need to satisfy these four aspects is shared by both government and institutions. However,

migration impinges in a number of ways on these four conditions for legitimacy. This to a large extent explains why [it] has taken on such central importance in political debates. The point is not so much that migration affects societal interests; many phenomena do this ... Rather, it raises key questions about the way in which the state is, or is not, fulfilling its ascribed functions. (Ibid.)

Unlike liberal institutionalists, Boswell here assumes that government *requires* state institutions to have autonomy from it in order to be able to exercise its own functions. Specifically the government-institutions is required for the state to enjoy enough popular consent to perform its actions. In other words, the liberalness of states is not primarily an effect of international and domestic law but a necessary component in hegemonic rule.

As regards policy paradoxes, Boswell applies her framework to account for inconsistencies or “failures” in immigration politics (ibid: 93-95). She applies Offe’s general theory of the irreconcilability for states to guarantee accumulation while simultaneously maintain legitimacy, specifying that this conflict “seems to be particularly acute in [relation to] migration policy” (ibid: 92). She maintains that simultaneous processes of globalisation and politicisation of migration issues mean that the emergence of divergences between accumulation and legitimisation is inevitable. There are many ways by which states can react to such gaps. These include protectionist populism, which jeopardises the interests of domestic capital, and the “intentional fudging of policy” identified by Offe and Hampshire (ibid; 2.2.1). Hall maintains that the state has an interest in what Boswell summarises as the “persistence of contradictions and inefficiencies in policy” (Boswell, 2007: 93). He writes,

A state faced with multiple tasks ... may find it necessary to maintain a degree of deliberate malintegration among its various policy-making aims so that each can mobilize consent among its particular constituencies by pursuing policies, which even if never fully implemented, appear to address the needs of these groups. In many cases the pursuit of incompatible policies renders all of them ineffective. (Ibid: 92 & 93.)

Boswell adds (echoing Hampshire here),

in the case of migration policies, such malintegration usually takes the form of a gap between proclaimed, restrictive migration policy, and the de facto toleration or covert implementation of more liberal measures. (Ibid: 93.)

Boswell's is an interesting and theoretically sophisticated framework that makes a compelling logical case as to why immigration outcomes (or real policies) differ from formal plans. Its strength is that it identifies the pillars through which governments gain and maintain public consent and how immigration interrelates contradictorily or uneasily in relation to some of these. On the other hand, despite announcing, "we can best understand migration policy by adopting the perspective of the state" the model says little about the state itself beyond the point of separation of powers made (Boswell 2007). What the state wishes to do with its legitimacy remains unidentified and capital accumulation is relegated to being a way by which political hegemony is maintained (ibid: 89 & 90). Also, like Hampshire, Boswell's model treats pro-restrictive public opinion as a factor external to – rather than partly shaped by – government/state imperatives. As a result the theory is insightful but incomplete and (similarly to that of Hampshire) points to the need to incorporate stronger theorisation of the nature of the state and its relationship with both capital and immigration.

2.2.3 Structuralist analyses

Many general analyses of immigration politics adopt a more structural-materialist angle than Hampshire and Boswell (and the other writers already surveyed in this chapter). Such approaches tend to be of the critical variant and often Marxian. In this sub-section they are further divided into, first, theories emerging from writing on "globalisation" (together categorised by Joppke and Boswell as "second wave" migration theory) – in 2.2.3.1; then radical appraisals regarding the benefits for employers of irregular-migrant employment – in 2.2.3.2; and, last but not least, more abstract-natured classical Marxist writing dealing with political contradictions related to immigration – 2.2.3.3.

2.2.3.1 Globalisation and decline of sovereignty

Many writers, most remarkably Saskia Sassen, affirm that irregularity is a product of both processes of globalisation and a concomitant decline of state sovereignty (1990,1996; Watts, 2002). Specifically for Watts this “gap between policies and outcomes” is due to “pressures emanating from outside the state” such as greater emigration from the South due to the “social and economic imbalances” emerging from neoliberal deregulation internationally (Watts, 2002: 59 & 60). It also is encouraged by the lower economic and psychological costs of migrating associated with the “expansion of transnational migration networks aided by advances in communication and transportation technology” (ibid; Portes in Hollifield, 2000: 156)

The 1970s recession spurred an epochal “recomposition of capital at a world level” in which there was a huge increase in cross-border flows of finance, investment and goods⁸ (Sassen, 1990: 53). Foreign direct investment (FDI) grew exponentially – expanding by 1000 per cent between 1950 and 1980 (ibid: 119). Large corporations offshored production and manufacturing jobs to low-wage countries. Sassen sees immigration as being “deeply embedded” within these broad processes of “economic globalization” (1996). In cities such as New York and Los Angeles deregulation led to an expansion of “downgraded manufacture” and informal employment (Sassen, 1996: 168). A more competitive international environment encouraged employers in growing financial, services and other *in situ* employment sectors to contain costs and increasingly hire “politically disciplined” migrants rather than locals with “middle-class aspirations” (ibid: 187 & 188). The American cities mentioned became “global cities” (ibid: 186; Hollifield, 2000: 158). In the US as a whole “Third World” immigration replaced the mainly skilled and European migration of the 1950s and early 1960s (Sassen, 1990: 83 & 84). Women increasingly came – taking advantage of migratory routes to escape from oppressive family situations (ibid: 120; Mezzadra, 2004: 270).

Sassen directly links migratory movements into the core with the growth of outward capital investment in deregulated markets (1990: 119 & 120). She points to the coincidence between US investment in commodity production for export in South East Asia and the Caribbean basin and the increase in emigration to North America from these regions (including a 400 per cent growth from South Korea and 125 per cent from the Philippines from the 1970s to 1980s, ibid). Several studies make a similar case comparing “flows” of

emigration from Mexico to the USA and Canada with American FDI travelling the opposite route (Hollifield, 2000: 151; Ferguson & McNally, 2015).

A recent examination by the Canadian Marxist authors Sue Ferguson and David McNally focuses specifically on how this pattern emerged – in particular through the North American Free Trade Agreement (NAFTA, Ferguson & McNally, 2015: 6). During NAFTA's first decade a large growth in northern agribusiness imports to Mexico led to a million people abandoning living from small farming (Ferguson & McNally, 2015: 4 & 5). Women and men migrated from rural areas to work in the *maquila* export manufacturing zone near the US border or further north to join a huge Mexican community in the US (which formed 28 per cent of the foreign-born US population in 2000; *ibid*; Legrain, 2006a: 230). The writers describe the NAFTA-inspired process as one of “on-going ... primitive accumulation that displaced rural producers from the land and drove them into markets in wage-labour” leading to “the construction of a truly continental labour market” (Ferguson & McNally, 2015: 4 & 6). They coincide with Sassen that such processes are not geographically confined but are international – exemplified in the six million people that migrated north from Latin America between 2000-2008 (*ibid*: 10).

As well as NAFTA, other regional or international institutional frameworks have emerged to exercise governance in relation to greater global economic interconnectedness. Internationally these include the “Bretton Woods” institutions, and the World Trade Organisation (WTO, Helleiner, 2014). The European Union – a political as well as economic framework – has the powers to manage much immigration policy – including inter-state mobility and external immigration controls (see 5.1). For Sassen state sovereignty is being “redistributed” onto these “supranational” organisations as well as agreements on human rights and legal regimes for business transactions (1996: 9).

Globalisation of capital and people, as a result, is destabilising “[e]xclusive territoriality” which it is maintained is “a marking feature of the modern state” (*ibid*). Correspondingly, Sassen concludes, the “partly unbundled ... power and legitimacy we call [national] sovereignty” may still be able to “write the text of an immigration policy” but can “only partly address and regulate through immigration policy conventionally understood” leading to a decline in state autonomy vis-à-vis immigration (*ibid*; 1998; 1996: 15 & 16).

As well as policy becoming more multi-level (most notably in the European Union), Sassen identifies a greater diversity of actors involved in immigration debates and policymaking in the core countries. In Europe in particular,

[t]he policy process for immigration is no longer confined to a narrow governmental arena of ministerial and administrative interaction. Public opinion and public political debate have become part of the arena wherein immigration policy is shaped. Whole parties position themselves politically in terms of their stand on immigration (Sassen, 1996: 12.)

Relatedly for Sassen, the “claimed power [of the state] often begins with a limited contest between the state and interested social forces”; *ibid*). Yet such a process is not wholly new and has always included “agribusiness, manufacturing, humanitarian groups, unions, ethnic organizations, and “zero population growth efforts”. (Sassen seems to partially converge with Freeman regarding the important relationship between government and interest groups; 2.1.1).

The evolution of trade-union policies on migration reinforces the globalist thesis. In research carried out in 1996-7, policy shifts by unions were detected in the US, France, Spain and Italy. This means, in Watts’ words,

[t]oday many labor leaders see immigration as an inevitable consequence of globalization and believe restrictive immigration policies cannot stop the flow of immigrant workers ... As a result, most labor leaders today favour policies that promote, rather than restrict, immigration. (2002: 1 & 2)

The practical consequence has been the forging of “an unlikely alliance” between workers’ organisations and employers aimed at opposing restrictionist laws and procedures (*ibid*). Finally Sassen indicates that it is not just interrelationships between state and civil society that have changed, suggesting, “hierarchies of power and influence *within* [author’s emphasis] the state are being reconfigured by the furthering of economic globalization ... multiplying the room for conflicts within the state” (1996: 15 & 16).

Therefore the Globalist approach could be summarised as believing that nation states a) have little power to manage immigration (beyond affecting the speed and efficiency of immigration “flows”), b) are more likely to be challenged and influenced by global legal regimes and organised civil society, and c) are being internally reorganised in ways that both reflect and promote greater disagreement on immigration (Hollifield, 2000: 158). All of these factors –particularly the strength of migration in relation to declining states – contribute to disparities between government discourse and immigration practice.

Appraising the globalist case

Sassen's analysis offers a framework to begin thinking through the relationship between European and Spanish policy, as well as giving a more materially grounded perspective to the issue of the external – continental or global – legal constraints on state restriction. Most importantly it attempts to provide a general framework for very real historical *changes* of an economic, political and social nature. This is of notable importance bearing in mind that immigration policy paradoxes are an occurrence that has increased in recent decades, a growth that requires explanation. Miles celebrates that Sassen's (early) general thesis demonstrates "the complexity of the relationship between capitalist crisis, capital accumulation and international migration" (1993: 125).

Yet Miles also suggests that the overall analysis is excessively "economic" ("even economic"), as it fails to acknowledge that "many migrations are politically determined" and that even those "migrations determined by labour demand are necessarily mediated by the political institutions of nation and state" (Miles, 1993: 127; Hollifield, 2000: 158). This danger of economic reductionism is demonstrated by the recent wave of migration arriving in Europe that has been driven by war (Syria, Iraq, South Sudan and the Central African Republic, Crawley, 2015).

There are several other limitations to Sassen's analysis that can be signalled. Freeman challenges the "decline of sovereignty" thesis pointing to the important variation in effectiveness of controls: with Britain, Australia and Scandinavia as "successful" cases, and Spain, Greece, the US, Italy and Portugal as the opposite (1998: 94). Freeman fails to acknowledge that the first group of states are more geographically isolated than the latter group, but the effectiveness of border control has varied in time and place – for example being performed relatively efficiently after the First World War, in the 1930s slump and (very tragically) when Jews tried to flee Nazi Germany (Marfleet, 2006: 71 & 72; 128-130).

As well as questions over the power of global rights guarantees to overturn decisions by states raised 2.1.2.2, it is doubtful whether even the most developed international institutions can routinely impose their will on states. The EU, for instance, has not been able to stop member states – particular in its core – from disregarding its legislation. An example is when the Sarkozy government in France deported ten thousand Romanians and Bulgarians of Roma origin – breaking EU anti-discrimination laws and agreements and directives on the free circulation of European citizens⁹. Similarly the Rajoy government in Spain has admitted carrying out summary deportations of migrants on its Moroccan border

despite such actions breaking a range of international treaties (and the Spanish constitution), without significant European repercussion¹⁰. Similarly the European institutions were relatively passive when in 2015 several EU states reintroduced national border controls in response to the “refugee crisis” (1.1). Furthermore, Freeman is probably correct in saying that European policy cooperation on migration is “essentially in the hands of nation states” (1998: 91 & 92; see 5.1).

A second issue is whether the extent of international mobility of labour – or globalisation of people – can be compared with that of capital (finance and production). Deregulating international mobility has not taken place beyond European borders or globally and has not been a concern of the WTO and other global institutions and agreements (Shelley, 2007: 27; see 5.1). Figures suggest that immigration is a relatively weak example of cross-border tendencies. The percentage of the planetary population that live abroad is narrow: 3.2 per cent in 2013 – a small rise from the 2.9 per cent of foreign residents in 1990 – and only half of them reside in the Global North (ibid: OECD, 2013: 1-3). These relative magnitudes are dwarfed by the proportion of capital invested abroad: 18 per cent of world output at the end of the 1990s (ibid). Such disparities have led Sutcliffe to sentence, “employment and residence are quantitatively less globalized than production or investment”, and Bhagwati to declare that international labour markets are “the most compelling exception to liberalism in the operation of the world economy” (Sutcliffe, 1998: 326; Harris, 1995: 157). A rationale has been identified for these contrasts. For De Lucas migration has become globalisation’s “masthead” and “the shibboleth of the very culture of globalisation”¹¹, but also one of the “bad flows” requiring controlling (alongside non-Western ways of life¹², De Lucas, 2013: 23). Similarly Sassen identifies labour and capital mobility as being treated as two “epistemic communities” (1996: 15).

With regards to the link made by Sassen and Ferguson and McNally between specific examples of international deregulation and people “flows”, several difficulties emerge. First, projects like the EU and NAFTA have a regional scope and attempts at institutionalising neoliberal policies and creating integrated labour markets *globally* have been considerably more restricted. Therefore the capital-labour “circuits” within NAFTA should not be assumed as generalisable globally – as the mentioned authors do.

Sassen impressively links broader hyperglobalisation ideas of the kind defended by Strange, Hardt and Negri and others, to transformations in the field of immigration and policy (Strange, 1996; Hardt & Negri, 2001). It aids accounting for the convergence of domestic immigration policies, among other aspects (Sassen, 1996: 10). Nevertheless, it rests on an

over-simplistic view of economic development and an undervaluation of the role in society of states – particularly those of North America and northern Europe (including through their dominance of international institutions; Hirst & Thompson, 1999; Weiss, 1997). Financial services and multi-national production still have strong logistical and other links to specific national states – as demonstrated when different states rescued major banks during the recent financial crisis. Moreover international investment has tended to take place within the “Triad” of East Asia, North America and Europe, and has bypassed many countries entirely (Hirst & Thompson, 1999; Weiss, 1997). “Supranational” European integration is best seen as primordially a process of state alliance in response to global economic, diplomatic and military competition. If such a process (and that of NAFTA and other trade blocs) are treated as *regionalist*, Sassen and Ferguson and McNally’s observations regarding international dynamics and immigration can be revealing and useful.

2.2.3.2 Economic interests in illegality

Some radical scholarship inside and outside the globalist category rejects that irregular migration should be understood as “unwanted” or being an accidental consequence of political-economic contradictions. Rather they see it as economically motivated. Trujillo-Pagán argues that irregularity is promoted by an “immigration industrial complex” led by the private firms hired to detain and deport migrants (and therefore profiting from illegalisation) and supported by associated politicians (2013). Such a view may be part-influenced by the real tendency in recent decades to increase the participation of private firms in enforcing migration controls. British and Dutch governments have outsourced management of detention facilities for failed asylum applicants to the subsidiaries of large security firms, and the EU has hired defence and security companies for border policing and surveillance (as described in 5.1.3; Menz, 2009b: 322).

Trujillo-Pagán and many other authors identify a wider layer of employers (and even whole national economies) as benefitting from the impact of state coercion on migrant labour (Ferguson & McNally, 2015; Calavita, 2005; Akers-Chacón, 2006). Some of these deduce from this that immigration controls are a “policy” or “means to control labor” (Akers-Chacón, 2006: 174; Ferguson & McNally, 2015). For Trujillo-Pagán the law aims “not to physically exclude [migrants] but instead, to socially include them under imposed conditions of enforced or protracted vulnerability” (2013: 4). It is a view echoed by many progressive

institutions. For instance the International Labour Organisation writes “numerous governments informally tolerate irregular migration while they officially reinforce controls against ‘illegal’ migrant workers”, a combination that helps “meet labour needs in certain sectors of the market” and thus “constitutes a de facto employment policy” (in Shelley, 2007: 30).

Differing from Sassen and “Second Wave” predictions that liberalism in institutional processes substantially undermines state control of migration, Ferguson and McNally highlight that NAFTA adopted a contrasting approach to capital and labour “flows”: “one liberalized and the other punitively policed” (ibid: 6). In 1995 – the year after the agreement was introduced – 1.3 million migrants were apprehended at the US border; the next year new legislation was introduced to speed up removing aliens and “phoney” refugees; fences were militarised and reinforced; in the following years half a million migrants per annum had to enter Canada as precarious “guestworkers”¹³ (Ferguson & McNally, 2015: 6 & 7; Marfleet, 2006: 171).

Yet if the North American agreement prevented *free* emigration, it did not end migratory movements. It has been estimated statistically that for each of the 1.3 million detained in 1995 nearly two and a half others managed to enter the United States (Marfleet, 2006: 171). As had occurred for decades, migrants entered through “back door loopholes and side doors” (years after which many would be regularised through “front-door amnesties”, ibid: 168 & 169). Federal policy remained (in Joppke’s words) “lax, with intermittent shows of toughness” (ibid: 170). Legal proceedings were applied to a very small minority of those detained (3.2 per cent of those apprehended in 1998, ibid: 173). By 2001 the Immigration and Naturalization Service (INS) had ceased to look for irregular residents (ibid: 173). In a period of promises and increased public expenditure to curb unauthorised migration, irregularity has grown – especially of Mexicans. Whereas in the 1980s only a quarter of Mexican arrivals in the US were “illegal”; by the last decade the proportion had risen to over four out of five. (Ferguson & McNally, 2015: 5 & 6). It has been estimated that in 2006 half of the twelve million US residents born in Mexico were undocumented (ibid). Irregular migration is also essential to the economy. Using population surveys, Passel calculated that the undocumented made up 24 per cent of all US farmworkers, 17 per cent of cleaners, 14 per cent of construction workers, and 12 per cent of food-industry workers – all revealing statistics (Shelley, 2007: 23).

Business benefits from such outcomes. This firstly is because employers can be

“confident that the [undocumented migrant’s] vulnerability will allow evasion of social security charges, taxes and overtime pay, reducing costs by a sum which could be up to two-thirds of the wage bill” (Marfleet, 2006: 171)

Similarly, inspired by the writings of De Genova, Ferguson and McNally maintain that the purpose of restrictions “is not principally to deport undocumented workers, but to deepen their condition of *deportability*” leading them to become “a vulnerable and hyper-precarious section of the working class whose insecurity contributes to the lowering of general levels of real wages and job and social protections.” (Ibid: 5 & 6). This, they add, makes migrants “the ideal precarious labourer of the neoliberal era” (ibid: 1).

Additionally, Marfleet points out, an irregularly increased population helps avoid declining land and house prices, and avoid deflation due to the rising wages associated with labour shortages¹⁴ (Marfleet, 2006: 171 & 172). In 2001 the Cato Institute think tank estimated the financial benefit of irregularity to the US economy at \$30 billion annually – describing irregularity as “the lubricant to our capitalistic economy” and providing it with a “competitive advantage” over Europe (ibid: 173). Neoliberal defences of immigration of this variety encourage some radical writers to treat “illegality” as “deliberate social policy” (Ferguson & McNally, 2015; Calavita, 2005; Akers-Chacón, 2006: 174 & 175).

Less economic critical writing identifies in a more nuanced way relationships between borders and positive outcomes for elites. Marfleet writes “crackdowns” on border crossings have pushed migration through more dangerous routes (leading to several hundred deaths yearly by 2000¹⁵) but “have not aimed to stop irregulars” – instead being “mainly of symbolic value to politicians with populist agendas” (Marfleet, 2006: 172 & 173). For Andreas these suppressions have “more to do with managing the image of the border” (Trujillo-Pagán, 2003: 3). This led the scholar to describe the relationship between the US state and irregular networks (including the Mexican-US “coyotes”) to be “conflictive but in many ways symbiotic” (ibid: 174). This idea is reinforced by the federal de-criminalisation of illegal employment introduced in the post-war period, and the examples of politicians that have campaigned for greater controls but also sponsored legislation to prevent workplace raids (Trujillo-Pagán, 2013: 8; Marfleet, 2006: 170).

Marfleet indicates that Europe does not follow closely the North American model indicated but that some similarities exist (2006: 169). In the post-war period in France ministers openly defended the benefit of clandestine migration into the country, and in

several Mediterranean countries there has been high and growing levels of irregular entry and settlement (ibid: 69, 174 & 175; Baldwin-Edwards, 1998; Calavita, 2005).

Countries such as France, the US, Greece & Spain have seen repeated “amnesties” being performed – sometimes affecting very large numbers of people (such as the 2.6 million migrants regularised by the Reagan government in 1986, Marfleet, 2006: 69). Repetition occurs because, as Pinkerton identifies, amnesties tend to be followed by further large-scale entry – perhaps encouraged by the hope of future regularisation processes (ibid). The combination of “illegal” and “legal” aspects to immigration processes leads Marfleet to describe policy practice as follows,

“immigration control erects only notional barriers to entry or operates on the basis of informal ‘rules of the game’, whereby officials, employers and migration agents share an understanding that clandestine activity is part of the routine of migratory movements” (ibid: 170).

According to this view irregularity is less an unwanted contradiction than a functional, structural and even desired one.

Structural irregularity

The writing analysed above in 2.2.3.2 shares the advantage with Sassen’s scholarship of looking at how immigration policy has developed *concretely in the recent period of neoliberal globalisation* – rather than resting on static models. Compelling evidence and arguments are provided to show that political “fudges” dominate policy in countries such as the United States. The description of American irregularity connects considerably with the background already outlined on Spain in 1.2 (and developed further in 5.2). Even if its degree varies across countries, irregularity clearly has become a fixed feature of society across the developed world.

Yet the question remains as to whether existing practice is *intended*. Trujillo-Pagán’s notion that illegalisation is driven by a “cimmigration system” featuring private firms profiting from controls is particularly unconvincing. Firstly rather than the increased cooperation between private firms and governments in migration issues expressing simply their increased influence over governments – as is implied, sometimes the relation appears to operate in the opposite direction. Public purchase of tickets for transporting returned

migrants can be lucrative (earning British Airways a total of 4.3 million pounds in 2006), but airlines also suffer inconveniences by performing this role (Menz, 2009b: 319-21). Since the 1980s airlines based in the Schengen area have paid tens of millions of euros in fines and additional repatriation costs for transporting person without valid visas, as well as undermining their corporate image by aiding expulsions (Menz, 2009b: 319-21; see 5.1.2). Lorry drivers have protested against being fined for carrying migrants from French ferry ports to Britain (Menz, 2009b: 321 & 312).

Secondly and more crucially, employers profiting from migrant hiring is a minority fraction of capital as a whole, and those benefiting from illegal hiring even smaller. Logically governments may want to accommodate the interests of firms hiring migrants if this contributes to national growth but irregularity reduces public revenue (from employers and taxes on earnings), weakens the ability of governments to manage their population, and can – if migration takes place on a large scale – put pressures on public infrastructure and services. None of these outcomes are in the interests of state and capital. Therefore it seems too simplistic and mechanical to assume that the benefits of reduced legal rights for some employers would be enough to encourage a “lax” approach by the state. Moreover, the US and Spanish states are examples of the liberal “variety of capitalism” and patterns in them may not necessarily be applicable to more statist regimes, such as in Europe.

A final issue is whether irregularity adds to paradoxes and tensions because it contributes to material and other differences between foreign residents and “natives” – encouraging perceptions of competition and rivalry between the two groups. Even though findings on labour and social impacts from studies in North America and Europe (including my own) are of impacts of migration on “native” wages and conditions clustering around being “small” or “slight”, sometimes there is evidence of temporary or longer-term depressive effects on the wages of the very poorest. Such effects, as my own research showed, are likely to be more produced with higher levels of undocumented immigration (LeGrain, 2006a: 134-139, 340 & 341; Stobart, 2010).

2.2.3.3 Contradictory tendencies in capitalism

Some Marxist writers provide an analysis of the relationship between migrant labour and both capital and states that suggest more structural and less-strategic rationale for

immigration contradictions. In this sub-section the work of David Harvey and Gareth Dale, who developed Harvey's analysis, is examined and critiqued.

Harvey's labour mobility versus immobility

David Harvey is recognised by many as the writer that has contributed most to understanding territorial or spatial processes, performing such through careful study of Marx's writing on capital. In his early classic *The Limits to Capital* the writer treated labour mobility as a key ingredient in the accumulation process because of the need for capital to be "fluid" and able to "adopt new labour processes", as well as "take advantage of superior locations" (in Dale, 1999: 291). However, Harvey also identified how capitalist production encourages two "countervailing influences over the geographical mobility of labour power [capacity to do work]", which are described below (Harvey, 2006: 412).

This "freeing" of workers when capitalism emerged historically had a "double sense" according to Marx (1990: 272). Firstly "as a free individual [the worker] can dispose of his labour-power as his own commodity" and stopped being tied to one owner of the means of production – unlike the serf in relation to the feudal lord (ibid). At the same time the labourer became "free of all the objects needed for the realization ... of his labour-power", forcing them to have to work for at least one member of the capitalist class (ibid). This was brought about initially (in England) through capitalist landowners expropriating the land – including the "common land" shared by the peasantry – and in the process producing "the requisite supplies of masterless proletarians" (Marx in Marfleet, 2006: 57).

The proletariat's capacity to work (labour power) became one more commodity to be bought and sold in the expanding markets for products. As this became treated as "nothing but *variable capital*" – "an aspect of capital itself" – and therefore having movement that is "embedded" within the laws "that regulate the mobility of capital in general", "the absolute freedom of the labourer to move must be strictly circumscribed" (Harvey, 2006: 380-382). Perhaps it is this logic that leads the Marxist geographer to treat "in situ" increases in labour – for example through international migration – as increasing in attractiveness (as one of two "spatial fixes") when capital is suffering economic crisis or great financial pressure, even if recent experience suggests that migrant labour is more likely to be subject to greater control in times of recession and slump (see 5.2.2.1 on Spain; Dale, 1999: 304).

The Limits to Capital offers a second economic reasoning for the mobility-immobility contradiction, based (according to Dale's interpretation) on the idea that "the circulation of

labour power cannot be understood separately from its production and reproduction” (Dale, 1999: 295). Harvey identifies how – in general – employers benefit from “a stable, reliable workforce and captive labour supplies” (Harvey in Dale, 1999: *ibid*). Dale adds that once workers enter the production process, their immobility, not mobility, becomes the employers’ object (Dale, 1999: 296). Yet crucially some employment sectors “may prioritize the need for secure conditions of production and reproduction” while others, “freedom of circulation, which leads to varying policy orientations” (*ibid*: 292).

“Fixity” is particularly important for sectors relying on “social reproduction processes” – meaning the daily and generation reproduction of labour power – “for labour powers of certain qualities” – including those that require state investments in training and education (Harvey, 2006: 384; Dale, 1999: 296). This has the added bonus of keeping “labour markets segmented as a means of social control” (Harvey, 2006: 384). The practical consequence is that “the management of social reproduction” through welfare and other state provision “invariably entails the transgression of ... the free mobility of labour” (Dale, 1999: 296 & 297).

Harvey deduces that the requirement of “fixing” labour means that individual capitalists and “fractions of capital” may, in pursuing their own self-interest, curb the aggregate mobility of labour power in ways that may be inimical to the reproduction of the capitalist system as a whole.” (*ibid*: 412). The Marxist geographer refers to Marx’ example of the Lancashire textile manufacturers who successfully applied pressure on the national government to prevent the emigration of unemployed cotton workers in the 1860s (to avoid losing “the mental and trained power which cannot be replaced for a generation” – as described by one public lobbyist¹⁶, Marx, 1990: 720-722). There was also the example of how until as late as 1815 the emigration of mechanics employed in machine-making was forbidden “on pain of severe punishment” (*ibid*: 719.) A further instance provided by Dale was when “state-capitalist” East Germany built the Berlin Wall to prevent its workers defecting to the West (1999: 296).

In all, immobility and mobility form “contradictory impulses, which derive from the internal contradictions of capitalism in general” (*Ibid*: 412). Because capital’s interest in labour mobility is thereby undermined, capital mobility becomes the preferred spatial fix:

The unrestrained mobility of capital is therefore more appropriate to accumulation than the unrestrained mobility of labour – which may account for the twentieth

century trend to restrict the mobility of labour power relative to that of capital. (Harvey, 2006: 412.)

The “clashing imperatives” described have political and ideological implications relevant to the purposes of this study, as each “find reflection in the twin poles of bourgeois political thought: liberalism, with its emphasis on free mobility, equality of opportunity and universal rights, and conservative currents whose chief sympathies lie with institutions of social stability and control” (1999: 296 & 297).

The analysis mainly developed by Harvey plausibly accounts for observable policies that discourage mobility in capitalist development. For instance the provision of social subsidies normally requires the fixed residence of beneficiaries – managed through the requirement of regular attendance at benefit offices. As a result, non-employed reproduced labour power – including (crucially) the skilled variety – remains accessible to local or at least national employers. However, Harvey and to a degree Dale extend the analysis to account for *immigration policy*. This is far less convincing. In the contemporary world – or at least its developed part – it is not outward mobility that is restricted – even though emigration is of a considerable magnitude for some countries (including Spain and Britain). The example of the Berlin Wall is in many respects an anomaly that would require an analysis of the specific labour and rights regimes of bureaucratic Communist governments – a task beyond the remit of the present study. The examples of emigration control cited by Harvey and Marx corresponded with the period up to – but not beyond – early industrial capitalism, when welfare provision was limited. Over time, welfare administration appears to have taken over from coercion as the main mechanism through which to encourage the fixity of labour. Therefore we can conclude that his model offers a useful systemic view of capital’s contradictory interest around the spatiality of labour in the general sense, but not a convincing view of the political rationale behind immigration controls.

State versus capital as the key to the irregularity paradox

Some Marxian writers, including Harvey in his later works, have suggested that tensions and policy gaps such as undocumented migration are the product of a disjuncture between the state and capital (or fractions of capital). Cohen does this by equating the state with (national) capital as a whole – repeating Marx’s oft-repeated line that the state is “a committee for managing the common affairs of the whole bourgeoisie” (Cohen, 1987: 145).

For Cohen thus, “the state is charged with the responsibility of enforcing or relaxing border controls in the interests of the dominant classes as a *whole*” (ibid: 175). With regards to the immigration field this leads to disputes with employers, policy u-turns, or a failure to enforce. Specifically he reasons that the fact,

“sectoral interests of many employers do not correspond with the hegemonic and collective interests of their class ... leads to constant wars of attrition between state and sectional employer interests over the question of illegal immigration. Now a blind eye is cast in the direction of agribusiness, now a threatening gesture to fine employers of illegal workers is made” (ibid: 175).

He describes the conflict between the state (or dominant classes as a whole) and agribusiness – an example of a sector requiring cheap coerced labour – in Gramscian terms as a “subdued war of position” which “illegal workers” can take advantage of “with the effective connivance of employers” to prevent enforcement of controls (ibid: 175 & 176).

The description of the state-fraction dynamics is recognisable (particularly in relation to events concerning Spain’s agricultural sector – see 1.2.1 and 5.2.2.1), and it has the advantage of incorporating into the equation migrant subjectivity – an issue developed further at the end of this chapter. However, Cohen’s concept of the state is an unsatisfactory simplification. Marx used the bourgeois “committee” description of the state specifically to polemicize in his pamphlet against those that argued that the state expresses everyone’s interests (Harvey, 2007: 290). His more developed ideas on the capitalist state treated it as being an alienated form of (capitalist) social relations that had the specific task of managing and arbitrating between competing capitals and individuals. The state also carries out a series of functions necessary “for capitalism to reproduce itself as a dynamic system”, which the socially produced competitive mind-set of individual capitalists would prevent this group from performing (ibid).

To achieve its purposes the state exercises a “monopoly of the legitimate forms of violence”, legal and monetary sovereignty, the power to tax and redistribute resources, acts as regulatory authority over institutions and private property, and performs governance and administration that “at the very minimum address the collective needs of both capital and, more diffusely, the state’s citizens” (2014: 155). To act in such a way the capitalist state is necessarily relatively autonomous from large property owners and thus able to be a major social actor in its own right – a feature not the case for states in previous societies not

fundamentally shaped by productive competition. (See 3.2 for a full examination.) Therefore the conceptualisation of the state applied by Cohen (and some other Marxist writers) can be interpreted as being shaped by an economically reductionist reading of Marx (Cohen, 1987: 145).

This critique would no doubt be shared by Harvey, who developed a useful more-sophisticated analysis of the capitalist state in 2001 – aspects of which are incorporated in an analysis of the topic in 3.2 (2007: 290-298). In more recent writing Harvey has suggested that “[t]he logic that attaches to the territoriality of state power is very different from the logic of capital” clarifying that “[t]he state is, among other things, interested in the accumulation of wealth and power on a territorial basis” (2014: 156 & 157; 2003). He identifies the clash between “fixity (the state) and motion (capital)” as one of “the seventeen contradictions of capitalism” and as having created discomfort and conflict in immigration policies (ibid: 155). He firstly contrasts the (historically delimited) mobility of both capital and labour with the state as “a bounded territorial entity formed under conditions that had little to do with capital” – referring to states in earlier class societies (Harvey, 2007; 2014: 155). “[The territoriality of state power” means for Harvey, “the interests of the capitalist state are not the same as those of capital” (2014: 156).

Secondly the state is treated as sub-divided into different public institutions and as subject to different societal pressures (Harvey, 2014: 155 & 156). “Capital is not the only interest to which the state must respond and the pressures upon it come from a variety of interests” (ibid: 156). The state,

broadly follows pro-business policies, albeit tempered by ruling ideologies and the innumerable and divergent social pressure mobilised through the organisation of its citizens. But it also seeks to rationalise and use the forces of capital to support its own powers of governmentality over potentially restive populations, all the while enhancing its own wealth, power and standing within a highly competitive interstate system. This rationality contrasts with that of capital, which is primarily concerned with the private appropriation of accumulation of social wealth. The constructed loyalty of citizens to their states conflicts in principle with capital’s singular loyalty to making money and nothing else (Harvey, 2014).

In this dense description Harvey implies that governance relies on states obtaining loyalty from their respective population – an idea overlapping with Boswell’s theorisation (2.2.2).

Such an objective is satisfied through granting civil improvements or “constructed” through notions of national belonging (as “citizens”). In order for citizenship to have (perceived) meaning, non-citizens must be identified and excluded. He reasons,

Among [the nation state’s] sovereign powers perhaps the most important is defining and conferring the rights of citizenship under the law under its inhabitants and thereby introducing the category of illegal alien or ‘*sans papiers*’ into the equation. This creates a separate population vulnerable to unthinkable and unrestricted exploitation by capital (ibid: 155 & 156)

He adds that the fact, “[t]he two spatialities of state and capital sit awkwardly with and frequently contradict each other ... is very clear in the case ... of migration policies” (155 & 156).

Harvey here approaches the state as a living breathing three-dimensional organism, introducing many of its multiple functions and avoiding economism. In this regard arguably his later writing develops greatly his earlier analysis of the spatial nature of immigration paradoxes. By incorporating a variety of Marx’s observations on the state, Harvey provides a useful starting point to overcome any tendency to analyse the politics of immigration purely as a mechanical reflex of its economic dimensions, while avoiding the opposite error of making dematerialised or formalistic political analyses. He identifies the influence of social, political and ideological pressures on states, helping avoid “dead” political economy.

Nevertheless, there are several limitations to his analysis. Firstly his view that the formation of the contemporary state has pre-capitalist roots is problematic. While the contemporary state was often built using structures developed before the generalisation of competitive industrial production or manufacture, its (imperfect) autonomy from the propertied classes represents a break from earlier state formations (including in the “modern” era). Its “political” or thoroughly legal nature was forged only through terminating the absolutist state through revolution or reform from above (3.2). Arguably if certain features of the capitalist state existed in the previous Absolutist period of history this was because mercantilism was already reshaping society towards commodity production, creating social and political impacts that began to transform the state (ibid).

A second problem is exaggerating the contrast between “fixed” state and “mobile” capital dynamics. Firstly, states are not necessarily mobile. When capitalism was mostly limited to the European continent, its states were very proactive in annexing or colonising

territories in what is now known as the Global South. If the dominant states have ceased to play such a role it is likely mainly due to the globalisation of the competitive state system. In other words, it is not that states choose to be fixed, but that other states contain their mobility. In the last century there have been many changes to borders due to internal or external state conflict. Likewise, much activity by firms is relatively immobile, including in the sectors of services, transportation, construction, heavy industry and high-tech production. Indeed to a large degree labour migration continues to be important to developed countries because the fixity of much economic activity prevents any outwards (capital) spatial fix.

Dale's alternative development

Despite Harvey's influence on his writing, Dale develops a theorisation of the relationship between capitalism and migrant labour that rejects attempts at contrasting the (universalising and internationalising) logic of capitalist civil society (and human-rights regimes) and the (static and particularist) drive of the nation state (1999). Within this endeavour he – sometimes tacitly – offers a rationale for migratory paradoxes – despite this not being a stated objective of his study.

Dale treats the state and capital as sharing “an underlying unity” (Meillassoux in Dale, 1999: 287), with states being “less the antagonists of capital relations than forces vital to their emergence and continuity”. As well as playing a crucial part in the foundation and internationalisation of generalised commodity production (through expropriating land from the English peasantry to colonising the South), states had to protect very uneven property rights (Dale, 1999: 285 & 286). This necessitated exercising coercion and management of society, which led to the development of the state as “unitary authority” (Kay & Mott in Dale, 1999: 284):

[A]bove all the constitution and arbitration of contracts and the enforcement of exclusion (right), require a segment of society to be ‘separated out to act as the universal force that objectifies all particular rights.’ (ibid: 283 & 284.)

It is thus understood that the differing societal roles of states and private capital could be understood to be no more than a division of labour (and costs, Dale, 1999: 287). Specifically States’ act as “farmers of surplus extraction”, which requires states “to intervene in, consolidate, and perpetually remould social relations in the interests of capitalist

development” – in other words being a central actor in economic development (ibid: 288). Dale warns of the mistake of contrasting political and economic institutions in relation to labour management, maintaining, “both states and capitals ... stand against wage labour ‘as the alienated from of its own powers” (ibid).

Rather than the internationalisation of the capitalist mode of production being a process that has weakened the nation state, it is a process that has developed parallel to the globalisation of the state system. International economic flows have been made possible precisely due to the international spread of “the political state” and associated “all-encompassing” legal and bureaucratic systems for capital investments (ibid: 305 & 306). “To command and exploit productive labour (and natural resources) located under the jurisdiction of another state” would have been “unthinkable under feudalism” (Rosenberg in Dale, 1999: 306). States are willing to provide this support because they depend on international economic flows and must transgress their own borders (Dale, 1999: 306 & 307). This would account for both international financial and productive investments and migrant labour “flows”.

Yet a contradiction emerges. The state is also a nation-state developed with mercantile and productive capitalism from the late 18th Century onwards as an ideal vehicle for managing and controlling capitalist society. In order to carry out its many functions it imposed “a unitary fiscal, monetary, judicial, legislative, military and cultural system on its citizens”, requiring attaining legitimacy from the national population – conceived as the state’s “citizens” (Tilly in Dale, 1999: 305). This is achieved by a related combination of conferring people with (full) legal and (limited) social rights, and through the imagining of belonging to a national “community” (Dale, 1999: 303). In all cases inclusion was clearly circumscribed to those the state recognised as “national citizens”, (ibid: 305). Sometimes citizens’ rights could be enjoyed and deepened by individuals and workers’ organisations (ibid: 300). On the other hand, they serve the capitalist state as “the juridical clothing of the very relations of exploitation and domination that suppress and deny workers’ real subjectivity” (ibid). In particular abstract freedoms and equalities could be subverted by concrete social inequalities and other realities (ibid). In this regard, according to Barker, citizenship and civil rights could be seen “not as universal goods but in practice the *property* of states” (in Dale, 1999: 302). Relatedly “territory” became “spatial property; thus, like the fences around private property state boundaries are jealously guarded ‘and maintained by force and the threat of force’ (Barker in Dale, 1999: 284). Therefore “[f]rontier posts, immigration officials, passports, import regulations, tariffs and so forth are all manifest

aspects of private property – and of the processes of exclusion which Marx examined at their most fundamental level in his consideration of the ‘commodity form’” (ibid: 285).

Dale acknowledges how restriction of immigration was used by states to encourage “drawing lines of demarcation” among workers and thus discouraging alternative (class) forms of identification to that of the nation (Dale, 1999: 309). As an example, widespread controls were introduced in Britain in response to the New Unionism of the turn of the 19th-20th Century, a movement that united Irish labourers with their British counterparts (ibid: 304). Furthermore, with the erosion of the “social contract” in the neoliberal period, symbolic exclusion and inclusion in “the nation” is emphasised more (ibid: 308). Yet he insists that “[t]he soil in which modern prejudice and institutional discrimination grow is deeper” than Machiavellian “divide and rule”, and that it is “produced by the dynamics of capitalism considered as a totality” (ibid: 309).

Critically for the purposes of this study Dale suggests that the desire for cultural uniformity required by the nation state collides with the latter’s need to economically break through its borders – including by “importing” labour, a disjuncture that may have intensified due to greater competition in labour markets in recent decades (ibid: 308). Such a contradiction points (timidly) to an alternative reading of the immigration “problem”: one in which the root of conflict is *internal to the political state itself rather than between state and capital* – as Harvey and others maintain. This is a plausible advance, yet there are aspects in the associated analysis that require development or revision. Although Barker’s comparison between the inclusions and exclusions of commodity production and human mobility seem valid, can state territory be reduced to being seen as “private property”? If so who controls the state and therefore the national space? Does this change with a change of government? Is civil society – including the private owners of capital – excluded? ... These questions require further enquiry into the nature of the nation state and its interrelationship to immigration – a task performed in 3.2.

Migrant agency as a source of paradox

Harvey and Dale did not just treat migrant labour as being mere labour power – in other words a factor of production. Both writers approached it as a “creative subject” in itself (Harvey, 2006: 380). Harvey implies that this may be a further source of tension and contradiction within processes. Concretely workers,

perpetually roam the world ... shunning the worst aspects of exploitation, always struggling, often with some success, to better their lot. Capital must necessarily accommodate to this process, and to the extent that this is so labourers fashion both the history and geography of capitalism (ibid: 380 & 381).

Elsewhere he identifies how the “rights to move” of both capital and labour leads to “curious patterns of struggle and compromise over the geographical mobility of labour” (ibid: 385)

Dale shares several further precisions regarding migrant-labour subjectivity. First, labour power (in general) is a peculiar commodity. In Shortall’s words,

whereas all other commodities appear as objects that are not only *alienable* but also separable from their owners, labour-power, although it is alienable ... is *inseparable* from the subjective being of its bearer – the worker (in Dale, 1999: 297).

Dale adds,

“[t]he attributes of energy, cooperation and imagination that are indispensable use values to their hirers are simultaneously use values to themselves, even enabling them to organize collectively against – or for – any or all aspects of the social order. (1999: 297)

Second, such capacity for subjective creativity means they can (and do) both resist exploitation in situ and move to escape from bad examples of such (“degradations”, ibid: 298). Indeed the migratory act itself “tends to reflect and reinforce an upward drift of workers’ needs and aspirations” (Harvey in Dale, 1999: 298). Yet a third feature identified is that population movement can also be “sticky” because of the financial and psychological costs of migration. “Networks of solidarity” (for example kinship and friendship networks) can discourage fixity even when this is not economically rational, but also encourage “chain migration” (sometimes unwanted by states, Dale, 1999: 298). Lastly because of disjuncture between migrant desires and immigration and employment restrictions, migrants can choose to act “illegally” (ibid).

Once again, Marx’s ideas as revised by Harvey and developed by Dale offer a useful basis for understanding the contested nature of immigration. However, their inferences and conclusions require “following through”. Moreover, to fully understand state and capital’s

attitudes towards immigration, it is necessary to approach the latter not just as a labour phenomenon: much immigration is driven by war or political persecution, and many of the controversies over immigration are in relation to asylum seekers and other migrants that are understood to “not be contributing to the economy” – regardless of whether they are subject to impediments from doing so and even whether such an idea is true.

2.3 Conclusion

The review of literature related to immigration contradictions presented has travelled some distance in answering the research sub-questions presented in 1.4. The attempts to account for policy gaps or tensions through analyses focusing on (or even limited to) economic and labour-market dynamics clearly have limitations (sub-question 1). In his early (but still often cited) analysis on capital’s interest in both mobility and immobility Harvey fails to account for state restriction of *immigration*. Scholarship by Ferguson & McNally and others that fundamentally interprets controls to be a mainly policy to condition labour processes in the interests of employers offers little explanation for inconsistencies: evidence of employer support for regularisation processes; reduced governance and state revenues; limits to the relative weight of the informal economy in national economies; and variance in irregular employment and tolerance of such in terms of country and historical period. This means that the position that employers’ benefitting from coerced foreign labour is *the fundamental driving force* of policy gaps probably can be rejected, even if there is a strong case that irregularity is politically *tolerated* for the same reason. Before concluding decisively that paradoxes cannot be conceived purely in terms of economic processes, we must factor in the economics of the state – carried out in 3.1.4.

General analyses of the migration issue and its contradictions that incorporate political dynamics as well as economic are generally more successful – although some more than others. Boswell’s account of the contrasting ways by which states seek to maintain legitimacy in relation to immigration offers interesting insights but is weakened by not explaining *why (and for what)* states require having legitimacy (or exercising hegemony – to use the Gramscian term), nor how exactly they achieve this through immigration policy. The latter aspect will be examined in 3.2.

Those emphasising how liberal migratory tendencies emerge from existing constitutional, institutional, bureaucratic and ideological frameworks can point to real

examples in which these are employed against restrictive measures (2.1.2). However, critics rightly point out that this is not automatic, and that state bureaucracies cannot be assumed to be neutral in conflicts (2.1.2.2). Furthermore, too often it is assumed that exclusionary tendencies are driven by voters' influence over the state, rather than a more complex and frequently top-to-bottom political process (in which the state can play a formative role). This warns against over-determining electoral politics to elite interests (political economy) – a partial response to sub-question three of the thesis (1.4). On the other hand, Harvey more convincingly posits that the state is influenced by “civil” and “social” organisation (interpreted as meaning parliamentary and extra-parliamentary activity”) – an issue returned to in the empirical Chapters Six and Seven.

With regards to the second sub-question, Hampshire and Dale give importance to nationalism as a shaper of immigration processes – concretely acting against capital's interest in labour mobility. Yet the former scholar is unconvincing when treating nationalism as having separate dynamics from “capitalism” (something that overlaps with Harvey's more nuanced later writing on the territorial and capital logics that collide of migration). Dale treats it as having a role in maintaining the long-term stability of capitalism, including through dividing “native” workers from Others and reducing common class identifications. Accordingly he locates the underlying paradox shaping immigration politics as being *in the state itself* – rather than in any particular institutional and political form of such (for instance the liberal state, as Hampshire and other authors suggest). Concretely Dale maintains that states must simultaneously break through their borders *and* enforce them: to ensure fixity of the existing labour force, preserve uniform national culture, and reinforce a sense of citizen's privilege. This offers a useful starting point that shall be developed in the following chapter. His and Harvey's functional but abstract accounts will be developed and extended by means of historical and general political analysis in Chapter 3.

A fourth question posed was regarding the impact of multi-level policymaking on paradoxes. The review of the globalist and global-rights regime literature suggests that international or regional agreements and bodies can act (or be used in the domestic sphere) against national-protectionist state tendencies. However, the examination suggests that globalisation (or regionalisation) has been much more limited in promoting liberalising human mobility than capital mobility. Consequently the clash between international and national policy and law is of limited explanatory power in relation to migratory paradoxes. Even in the most advanced case of inter-state alliance and institutionalisation – the

European Union – states still play a key role in articulating, enforcing and blocking continental policy and law. This issue shall be developed more carefully in 5.1.

¹ “It is through the cut and thrust of democratic politics that public perceptions of immigration are shaped, party strategies forged and government policies made.” Mass media act as form “in which the political agenda is set and policy issues framed” (Hampshire, 2013: 6)

² Hollifield’s petition was in fact foreshadowed by Miles in 1993 (see 5.4.2).

³ *Economic* logics are examined in 4.1 and 4.2.

⁴ He adds (equally disgracefully) that “Castro also included [among those emigrated to the US] some criminals and mentally retarded people” (Huntington, 2005: 251-252)

⁵ Earlier immigration procedures were frequently racialised, and not only in the obvious countries and ways. An example is the US’s Chinese Exclusion Act of 1882 and Immigration Act of 1924, which attempted “to preserve the ideal of US homogeneity” (<http://history.state.gov/milestones/1921-1936/immigration-act>)

⁶ It has been said that Milton Friedman – the best-known of such (neo-classical) economists – gave the advice “about immigration the less said the better” which, if true, would further reinforce the main argument made here (in Sutcliffe, 1998: 327).

⁷ The guestworker system had was first introduced operated in Germany prior to this: from 1870-1 to politically manage the large-scale recruitment of Slavic labourers in the new pan-German state (*Reich*) in 1870-1, applied “blood-based” citizenship to “ethnic Germans” (including those living abroad, such as the East Germans that migrated west *en-masse* before and during reunification) and tight employer-state-management of all other immigration as temporary and unworthy of settlement. , (Dale, 1999a: 118-121, 131.)

⁸ A comparable internationalisation of the economy took place in the late 19th and early 20th Centuries before a process of reversal – beginning in the First World War (Helleiner, 2014: 174 & 175)

⁹ Accessed 30 April 2015, <http://www.bbc.co.uk/news/world-europe-11027288>

¹⁰ Accessed 30 April 2015, http://www.eldiario.es/desalambre/Intentar-hacer-legal-ilegal_0_370963254.html

¹¹ De Lucas uses the term “santo y seña”, which, as well as “shibboleth”, can be translated as “watchword”. Similar to him, Anderson describes “anxiety over immigration” in contemporary Britain as “standing for ... many other things” including “globalisation” (Anderson, 2015).

¹² This is in contrast to “good flows” for which borders are dismantled (including, he cites, capital – particularly speculative, intellectual property, skilled or “niche” workers, and Western cultural values, De Lucas, 2013: 213

¹³ This was part of a “Temporary Foreign Worker Program” (Ferguson & McNally, 2015: 6 & 7)

¹⁴ At the same time it also may reduce pressures on wages to rise by increasing labour supply, which can have a depressive effect on general prices.

¹⁵ Deaths were due to crossing desert or fast-flowing rivers, as well as possibly due to shootings by US troops (Marfleet, 2006: 172)

¹⁶ The ex-president of a local Chamber of Commerce (Marx, 1990: 720)

Chapter Three

The immigration “problem”: an alternative framework

Dale’s reflection – outlined in the previous chapter, on how immigration is viewed according to the contradictory internationalising and nationalising tendencies of states shall be developed further in this chapter. This will be done by taking an in-depth look firstly at *the economics of immigration*: on the rise of and limits to labour mobility under modernity, its exact relationship with what Marx identified as the “reserve army of labour”, and the ways migration is perceived from the perspective of “social reproduction” – concretely the systemic requirement for the generational and daily reproduction of labour power and the economics of the welfare state.

Secondly, it shall attempt to develop the examination into the relationship between immigration and the complexities of modern statehood begun in 2.1.2 by providing a theoretically informed historical perspective to *the politics of migration*. The second subsection briefly charts the changing relation between the state, territoriality and population from the late Middle Ages – partly aimed at clarifying whether the contemporary state acts according to a territorial logic that predates capitalism and collides with its logic (as Harvey, Joppke and others claim). This looks at the way the notions of subject/citizen and foreigner developed – particularly after the French and industrial revolutions. It does not aim to be an exhaustive historical narrative but provide an extra analytical dimension to develop more robust theory. The chapter ends with an examination of the relevance of Marx, Gramsci and Miliband’s writings on the state and institutional politics to help ground the migration issue in its material and immaterial frameworks.

There are two observations to be made about the whole chapter. First, its strong historical component is of benefit because, as Bridget Anderson advocates,

“[t]hinking historically encourages us to link migration to other social and economic processes –to the extent that we often stop thinking of it as ‘migration’ at all. (Anderson, 2013: 12.)

The broadening of perspective she describes is useful as it facilitates looking at processes with a certain distance and helping avoid the highly charged nature of much discussion on the topic.

Second, the chapter relies to a considerable degree on Marxist writing (both in relation to immigration and states, nation and nationalism). It does this critically and in the spirit of Marxist feminist Cinzia Arruzza's ontological proposal:

to consider capitalism not as a set of purely economic laws, but rather as a complex and articulated social order, an order that at its core consists of relations of exploitation, domination, and alienation. (2014.)

She clarifies that this means treating the economic workings of capitalism as being the "driving force or motor of capitalism" but not,

everything that needs to be said about capitalism; this would be analogous to thinking that the explanation of the anatomy of the heart and its functions would suffice to explain the whole anatomy of the human body. (Ibid.)

At the same time she recognises that "understanding what its heart is and how it works is a fundamental analytic necessity". (Ibid.)

In accordance with such an approach – and encouraged by academic specialisation that produces separate economic and political studies on migration –this chapter begins by looking at the economic dynamics behind immigration paradoxes but then broadens the investigation to incorporate political aspects – centring on the relationship between the state problematisation (and regulation) of immigration and the modern state system (particularly in its capitalist phase). Most importantly the concluding section of this chapter (3.3) integrates findings from both to produce an initial holistic framework that can be tested.

3.1 The economics of the immigration issue

3.1.1 Territorial freeing of labour in the age of revolution and capital

Before the French Republic was created in 1789 nowhere were the poor deemed as having ownership of their own person. For example, in medieval England and Wales the majority of the population were treated as “tied to the land” and therefore to the landowning lord. Anti-vagrancy legislation introduced in the Fourteenth Century and hardened in the Tudor Period (1485-1603) meant that travellers without “master testimonials” were treated as “runaways” and punishable (even by death until 1597; Anderson, 2013: 13-27). “Draconian” poor laws forced displaced farmers and artisans into workhouses and poorhouses (Castles & Miller, 2003: 56). From the late Sixteenth Century the “unsettled” poor also were excluded from relief in the parishes – partly to deny them access to local “common land”. Being considered “settled” required marriage, a certain length of residency or seasonal work, or satisfying other conditions – requirements that are somewhat similar to those applied in modern residence and naturalisation processes (ibid; Harman, 2009: 39, 175). Geographical displacement was thus equated with social disorder – as also occurs today.

Despite these similarities, there were important differences too. Generally legal and administrative distinctions were not made between the “subjects” and “aliens” of a country (with the partial exception of property law) and international migration was not problematized like it is today (Castles & Miller, 2003: chapter 3). It was only later (in the early twentieth century) that usage of passports became generalised along with immigration controls (ibid; Anderson, 2013: 21, 22 & 29).

With the birth of capitalist society in Europe local fetters on the mobility of the poor were dismantled. The new liberal framework, as paraphrased by Harvey, would be of,

the freedom of the labourer to sell his or her labour power whenever, wherever, for whatever purpose and to whomsoever he or she pleases (Harvey, 2006: 380 & 1; 2.2.3.3).

Enlightenment political economists such as Adam Smith maintained that the new capitalist production system both was more efficient and freed humanity from the despotism of serfdom and slavery (Smith, 2010). It was this that led to Marx’s view that (fundamentally

speaking) labour had only become as free as “variable capital” (because it had no means by which to renounce labouring for the whole class of capitalists; 2.2.3.3).

The freeing of labour from land and property was led by the state. It held mass clearances of common land after the English Revolution (1649-1660). These “enclosures”,

cleared the ground for capitalist agriculture, made the land part and parcel of capital, while providing the needs of urban industry and the requisite supplies of masterless proletarians. (Marx in Marfleet, 2006: 57.)

In practical terms, by the late 18th Century many rural communities had become landless and immiserated and were compelled to migrate to work in the towns and cities. The working class was formed as “great masses of men are suddenly and forcibly torn from their means of subsistence, and hurled onto the labour-market as free, unprotected and unattached proletarians” (Marx in Cohen, 2006: 13.) Indeed the peaking of the industrialisation process (1750-1815) coincided with the highest rates of enclosures (1760-1832, Thompson in Harman, 2002: 318-9).

Yet the process to arrive at industrialisation was gradual: first passing through stages of craft production and then manufacture. Migration was stimulated by the “specialisation of territories” that developed under manufacturing (and that created a “cleavage” between town and countryside; De Gaudemar, 1979: chapter 5). It was also stimulated by the constant reconfiguration of production – destroying firms and whole trades and creating new ones in their place – and by a general tendency to produce unemployment even in periods of growth:

“it is capitalist accumulation itself that constantly produces, and produces indeed in direct relation with its own energy and extent, a relatively redundant working population, i.e. a population which is superfluous to capital’s average requirements for its own valorization”. (Marx, 1990: 782).

Marx adds here that the role of labour in the “accumulation of capital and the means by which it is itself made relatively surplus” indicates a “law of population peculiar to the capitalist mode of production” (ibid: 783 & 784).

Even after the consolidation of manufacture (but before the introduction of modern industry), enterprises had “yet to monopolise all of the labour supply” and were “forced by

workers' constant immigration and emigration to pick up its headquarters from one country and put them in another.”¹ (Marx in De Gaudemar, 1979: 162.) This stands in contrast with the period since the generalisation of plant-based heavy industry, in which labour shortfall has been met by labour mobility of different kinds: hiring people from other regions nationally or abroad, or multinational firms relocating their own employees. Increased need for mobility was further encouraged by the related creation of “shift-work” (temporal mobility) and introduction of more skilled work (requiring better educated workers). Together these factors led to a greater urbanisation of society, rather than a dispersion of production and population in the countryside (De Guademar, 1979: 165).

Similarly in the rest of Europe a consensus was forged for what was considered “surplus population ... to be torn away from their roots and ... migrate to the towns where their muscles were increasingly needed” (Hobsbawm in Marfleet, 2006: 57-8). Land reforms of the kind described had spread across western and northern Europe by the early 19th Century. In another thirty years they would extend across eastern and southern Europe. Related but more extreme forms of land dispossession and legal discriminations too place in the colonies of European states (Miles & Brown, 2003: chapter 5)

As a result of these transformations, many millions of people had to seek new lives in the cities. Alongside the economic turbulence accompanying the historically novel mode of production, it was a factor that encouraged further millions (including a quarter of the European population) to migrate to the “settler” countries of the Americas and Australasia – helping generate new dynamic poles of industrial development (most notably in North America; Marfleet, 2006: 58 & 66; Hobsbawm, 1975: 228 & 236). The result transformed the world.

The processes described in the previous paragraphs can be summarised differently. The transformation of production acted *centripetally* to concentrate settlement around it. However the volatility of markets due a rapidly changing economy and society – encouraged later by the internationalisation of production and consumption – also led to the widespread destruction of specific craft-making, manufacturing and industrial activities. This then set in motion *centrifugal* population movements – including of unemployed workers that emigrated to the “new territories” (De Gaudemar, 1979: 176). The combined result was one of historical levels of population displacement.

In short, the historical examination so far confirms Harvey’s observation that capitalist development and labour mobility have developed in tandem – shaping each together and our modern geographies. De Guademar and Miles go further. The former writer sees labour

mobility as a defining feature of the age of capital; and the latter describes it as “a constitutive force within and of” capitalism (De Gaudemar, 1979: chapter 5; Miles, 1993: 112).

3.1.2 Coerced labour from periphery to core

In 2.3.2 attempts to understand the irregularity paradox in terms of deliberate attempts to create categories of coerced labour were assessed and qualified – leading to the conclusion that irregularity is a structural feature of contemporary society. This therefore undermines the notion of labour mobility as a constituent feature of industrial (or “post-industrial”) society. For Robin Cohen irregular-migrant labour in the core countries proves that in the modern world labour has remained both in “free” and “coerced” forms. In the colonies “forms of coerced or involuntary labour” were a key component of labour systems: including indentured, “mita”² and penal labour, as well as serfdom, debt bondage, military conscription and the punishment of “absenteeism” by ex-slave apprentices (Cohen, 2006: 16-25).

Cohen notes that although Marx wrote “the capitalist form presupposes from the outset the free wage labourer who sells his labour power to capital” he recognised that capitalist labour relations were diverse (ibid: 14). For example, the first stage of – primitive – capitalist accumulation depended on the labour of the non-free – concretely indigenous and African people in the “New World” (ibid). 7.2 million people being transported across the Atlantic between 1725 to 1825³, and the particularly barbaric social relations of Atlantic slavery were driven by the emergence of a competitive global market in trade (ibid: 15 & 16; Banaji, 2016). Today many millions of workers (mainly in the Global South) are estimated to remain enslaved (a total of twenty seven million according to a 2004 study, Shelley, 2007: 7). For Cohen, capitalist societies rely on employing modern-day “Helots” – the group in Ancient Greece who were not slaves but were compelled to toil by being denied social and political rights (Cohen, 1987: chapter 1). They “do not require free labour or, for that matter, unfree labour, but work best through a judicious mix of labour of different statuses”, to which Cohen adds,

If we see this from the prism of ‘the logic of capital’, the systematic requirements are for a constant new flow of subordinate labour – slave, followed or paralleled by indentured, forced, non-citizen, illegal, colonial, ‘Third World’ and former state

socialist. As one cohort of helots is exhausted, another is found to take its place.
(2006: 60.)

The author recognises that “clearly there is a relative concentration of free worker in the metropole and unfree workers in the colonial areas”. Yet he denounces as rigid Wallerstein’s demarcation between the labour systems of “the centre” – skilled and free – and “periphery” – coerced: a division based on the uneven world systems that have continued after decolonisation⁴ (ibid: 17, 25 & 38). According to Cohen, migrant labour is just one of several examples of coercion in the advanced states: post-slavery practices of “debt peonage; convict and contract labour” in the US; camp labour in the USA; “child slavery”; forced migration of Irish labour in Britain; employment of “servants”; and “very localised” forced regimes in 19th Century Britain (ibid: 27-9; 1987: chapter 1).

These are real cases and it is evidently the case that capitalist labour relations can include coerced labour. This would be no departure from Marx’s ideas on labour as he argued that “free” workers were ultimately forced to work for the capitalist class due to their lack of property – a form of compulsion. Yet it appears that the legal subjugation of significant sections of migrant labour is the one substantial example of legally conditioned employment that has persisted in the developed world over the many decades. Moreover many of the instances of core coercion provided by Cohen are historically limited to the early industrial period. Modern forms of forced labour – also including camp labour in “Socialist” regimes and trafficking of sex workers – tend to be in some way associated to the underdevelopment that frequently overlaps with cartographies of colonialism (2006: 35-7). Therefore it is most likely that Cohen is over-stating his case against Wallerstein. The interesting question that remains is why immigration is an *exception* to unfettered mobility.

3.1.3 Uses and abuses of characterising migrants as a modern “reserve army of labour”

As well as capital’s requirement to fill existing or future labour shortages being a factor encouraging labour mobility and migration, it is also motivated by mobilising labour that can help contain business costs. Many Marxist writers explain how immigration plays this role by equating it to Marx’s concept – established in Volume I of Capital – of the “reserve army of labour” – or “surplus reserve army” (meaning available excess labour power; Castles &

Kosack, 1972; Dale, 1999: 293; Harvey, 2006: 381 & 382; Farris, 2012: 189⁵; Sivanandan, 2008: 70; Ferguson & McNally, 2015: 9; Hardy, 2009: 136, 381 & 382). In Spain the comparison between migrant labour and reserve army has been made by the big union federations and a broad range of migration researchers (Solé & Parella, 2001: 32; Martínez-Veiga, 2004: 161; Recio, 2008: 59; 4.2.1). In the present sub-section Marx's original approach is outlined, then assessed theoretically and practically using findings from international research and that of the present author (1.2.2).

Karl Marx originally applied the "reserve army" concept to non-employed labour available to capital: fundamentally the urban poor that had fled from rural poverty and landlessness, or previously had been ejected from manufacturing or industrial employment due to the volatility in production outlined in 3.1.1. Marx identified that this "surplus population" could act as a "lever on production" in two ways (Marx, 1990: 784). Firstly it serves to – in the words of his collaborator Engels – "produce the masses of goods required by the market in the liveliest months" and allows expanded hiring in response to cyclical economic growth (Castles & Kosack, 1972: 3). Secondly "surplus labour" could be used as competitors in the job market and potentially replace workers, which encourages those already employed "to submit to over-work" and subject them "to the dictates of capital" (Marx, 1990: 789).

It is this second – disciplining – role of the industrial reserve that normally is associated with migrant labour in most contemporary Marxian writing – exceptions being Harvey (2006) and Hardy (2006: 381 & 382). Cohen echoes the more dominant trend in the literature by affirming that migrant labour acts "as a classical 'reserve army'" allowing existing workers to be "disciplined" and possibly "replaced" (Cohen, 2006: 60). A more elaborate example is found in the influential writings of Castles and Kosack in the early 1970s. Their influential scholarship urged keeping in mind "the capitalist strategy behind labour migration" (1972: 21; 1973), which in the period of writing was most concerned with the inflationary effect of full-employment policies (if "the reserve army contracts, workers are in a better position to demand higher wages. When this happens, profits and capital accumulation diminish", Castles & Kosack, 1972: 4). The writers even suggested that industrial cycles were produced *mainly* because of the size of the immigration-produced labour reserve (1972: 4).

Applying the "reserve" concept adequately

There are several ways by which Marx's concept is being employed problematically here. Firstly when associating the industrial cycle with immigration Castles and Kosack downplay the fact that available surplus labour has other sources such as women not yet integrated into the labour market⁶. Most crucially the reserve army concept is applied in a way that crudely ignores the specificity of contexts for which Marx uses his term. The German writer referred to "a mass of human material *always ready for exploitation by capital*" (Marx, 1990: 784; author's emphasis). It is possible to find examples of such a process today but limited to displacement *within state boundaries*: such as the case of the 278 million Chinese persons that have internally migrated (mainly from rural to urban areas⁷) to provide continual cheap labour⁸.

Yet there are differences with *international* migration. Writing in 1973, Marshall indicates,

the immigration of the workforce to advanced countries has a special character especially as it does not play the typical role of the latent reserve of labour; today, most if not all immigrants from underdeveloped countries ... are incorporated straight into work and do not join unemployed native workers (especially since restrictions to immigration have been imposed) (in Martínez-Veiga, 2004: 70⁹).

Formal and informal migration in response to employment opportunities may help "exert pressure on wage growth" – or more exactly discourage increases associated with low unemployment (Marshall in Martínez-Veiga, 2004: 70 & 71). But arguably there is less likelihood that it would act to *lower* wages – making it different from the urban poor in large urban conglomerations in the Global South. This is because immigration is less likely to take place – particularly if unauthorised – if possible economic opportunities cannot be ascertained by the person considering migrating. (Even much forced migration – where "push" factors likely predominate over "pull" factors when deciding to migrate – aims at settling in economically and politically secure countries.) Edwards maintains that migration generates "highly visible pools of surplus labour" but this is certainly not the generally picture and not of a comparable level to Nineteenth Century Britain or contemporary China (Scott, 2013: 6). People also demonstrate a resistance to leave their home and kinship networks (Hayter, 2004: 153. This has meant that displacement between countries has sometimes been relatively limited between countries with very divergent socio-economic levels in the few cases in which citizens' have a right to circulate between them (for example in the

Schengen area of Europe or between the US and several Caribbean countries in the post-war period¹⁰; *ibid*; Sutcliffe, 1998).

In short, the labour reserve idea is often used as if there were no system of state restrictions on mobility being applied in practice and people did not resist having to leave their country for another. This means that the comparison between migrants and the surplus reserve requires substantial qualification and simple equating of the two should be rejected. It can be agreed that there is some significant or sometimes substantial overlap between migrants and the reserve army but they are not commensurable. In Marx's writing, there were frequent references to Irish migrants, who made up a considerable section of the urban poor in mid 19th Century Britain but Marx did not confuse the two¹¹. One possible reason for this may have been that – like many migrants today – much of the Irish were brought over to be incorporated directly into work – becoming “regular army of labour” as opposed to “surplus”. The above discussion signals the need to treat migrant labour as being its own category of labour which is received according to specific considerations that go beyond those of the reserve army.

3.1.4 Migrant labour from the viewpoint of social reproduction

Until now the economic analysis has centred on the relationship between migrants and production (whether material and immaterial). However, as Harvey introduced into the discussion in 2.2.3.3, the functioning of the productive system rests on a diverse array of human activities being able to reproduce labour power (or “the aggregate of those mental and physical capabilities existing in a human being, which he exercises whenever he produces a use-value of any description”, Barrett in Vogel, 2014: 143). Practically speaking, as Marxist feminists have analysed, this involves “the maintenance and reproduction of life, at the daily or generational level” and takes place mainly through unpaid labour in the home and sometimes through private and public hiring (Arruzza, 2014). This sub-section looks at how the how immigration is inserted in relation to social-reproduction processes.

3.1.4.1 Free or cheaper social reproduction

A first consideration is that the state (and those that pay taxes to the state) normally invest heavily in the generational reproduction of labour power (as well as the wider administration of “its” population. Indeed, as Harvey and Dale identify, this a major role of the capitalist state (2.2.3.3). Yet migrants are most frequently able-bodied adults whose reproduction (birth, subsistence, healthcare and education) was provided in their state of origin (through state provision as well as unpaid labour in the home and workplace labour paid by local employers; Vogel, 2014). This means that migrant labour allows recipient societies to “externalise the renewal costs of labour” (Hardy et al., 2014: 6). The state gains additional benefits if migrants arrive with work experience and/or training skills – as is frequently the case.

Consequently, writing in 1970s Britain, Ambalavaner Sivanandan described the migrant thus,

“He himself had cost the country nothing. He had been paid for by the country of his origin, reared and raised, as capitalist under-development had willed it, for the labour markets of Europe. If anything he represented a saving for Britain of all the expense involved in feeding and clothing and housing him til he had come of working age.” (2008: 67 & 68)

In purely economic terms accessing labour power from abroad is very advantageous to a state. A calculation by Gorz in the same period found each worker had saved the state thousands of pounds (ibid: 68). Immigration also reduces states’ organisational responsibilities during many years of the migrant workers’ life. Altogether this means that states gain direct benefits greatly from immigration (and firms and taxpayers indirectly benefit also).

Ferguson and McNally suggest that migration itself can further encourage the reproduction-migration process and benefits for developed states. Concretely the authors cite Mexican emigration in Canada and the US as encouraging *future* processes by which the richer two states’ can gain direct access to additional reserves of generationally reproduced labour. This is made possible by the remittances adult migrants send back to family members remaining in their country of origin, helping reproduce a generation that often follows family members to join their kin working in the North: thereby providing new sources of reproduced labour power¹².

A second aspect is that migrants are increasingly playing a role in social-reproduction markets – sometimes organised through international recruitment channels. This work includes for non-migrant families as part of a process of “marketization of so-called reproductive labour, which is done mainly by migrant women” – the latter group forming more than half of all migrants in EU member states¹³ (World Bank figures in Farris, 2012: 184 & 189). The importance of the link between migration tendencies and paid “reproductive” work is has been identified by Lutz, Sassen and Farris (“[t]he demand for labor in this sector has grown so much over the past ten years that it is now regarded as the main reason for the feminization of migration”, *ibid*: 190; Sassen, 1990). Reasons for the link between migration and paid “reproductive” work include the willingness to be spatially and temporally mobile among new migrants – particularly the undocumented – to perform unsociable hours, travel long distances to work, and even work “live in”; and the growth of cheap sometimes-residential work due to the large-scale incorporation of women in employment (1.2.2). Farris suggests that ethnic-minority or poorer nationality migrant women have been seen as the obvious choice to work in this sector for the following reasons:

On the one hand, it follows the rules of gender and the “sexual contract” within the household, which establishes that women are still in charge of reproduction and care. Further, it follows the rules of the “racial contract,” according to which ethnic minorities and people of color perform the least desirable and valued tasks in a society. (Farris, 2012: 194).

The same approach is extended to women from countries perceived as having lower status (for instance employment of Eastern European domestic labour by German households; *ibid*).

By immigration helping lower the time and money spent by “native” families on housework and the care of children and the elderly, it has helped allow both parents to work, which itself helps reduce inflationary pressures on wages and potentially increases competitiveness of firms and the state¹⁴ (Pajares, 2007). Migrants also make up an increasing part of the workforce performing care-work in public and private health and care centres (Hardy et al., 2014).

The competitive drive *between states* as well as between firms and even individuals means that the desire to cheapen or obtain for free the generational and daily reproduction of labour power is arguably as much a systemic financial consideration as lowering capital

costs in production. This is particularly the case in an era of neoliberal “competition states” (Menz, 2009b: 316-318; see 5.1.3). Arguably states are the main objective beneficiaries of migration in relation to social reproduction (although local employers and the rest of civil society also benefit). In this area at least it suggests states have an interest in allowing migration to take place – particularly if it remains low paid. It is a further reason to reject treating immigration paradoxes as a consequence of the clash between state logics and capital logics.

3.1.4.2 Migration and the welfare contract

Yet there is another way by which the state’s interest in migration becomes qualified. The material reproduction and organisational management of capitalist civil society is largely carried out by the state – requiring huge economic outputs and inputs – raised mainly through taxation of “its” population (representing around 90 per cent of state revenue in Spain¹⁵). Notwithstanding decades of neoliberal privatisation and outsourcing the state still receives revenues of a greater volume than those received by domestic private entities in the form of profits, interest and rent (Harman, 2009: 112). This often-ignored economic consideration logically would mean states (and less-directly taxpayers) have a objective interest in restricting the non-economically active population within the country. In other words, there is an economic rationale for states to seek to restrict immigration beyond that of labour demand, bearing in mind that access to basic social provision is often or normally available to undocumented migrants due to the existence of legally guaranteed and popularly imagined human rights (2.1.2).

This may partly help illustrate why normative defences of migration controls often centre on an appeal to prevent a supposed drain on the welfare state caused by “excess” population or – in a more incendiary version – “welfare tourism” by migrants¹⁶ (Becker in Sutcliffe, 1998: 327). It may also give indications as to why the “economic case for migration” tends to wish to reduce migration to labour migration – ignoring relocation by “dependent” migrant family members (and refugees). Frequently such entreaties are posed in terms of defending the rights of “ordinary taxpayers” (ignoring the fact that it is the *wealthiest* taxpayers that would be most affected by increases in tax liabilities due to broadly redistributive nature of tax systems¹⁷). An extreme example is the argument by the influential migration scholar Borjas that “[w]elfare programs” produce a “strong magnetic effect”, which

“combined with an ineffective border control policy, can literally break the bank” (Legrain, 2006a: 142). He suggests that in the US and other receiver countries this combination could lead to “native citizens ... subsidizing hundreds of millions of ‘the huddled masses’”.¹⁸ (Ibid.)

As well the volume of potential migration being discussed here being an “exaggeration for effect” (as immigration levels are at far lower levels “even with our current leaky borders” – as reminded by Legrain), Borjas admits that despite welfare being “the magnetic effect that comes up most often in the immigration debate, it is also the one for which there is no empirical support” (ibid: 142 & 143). On the contrary, a range of research shows that migrants, who tend to be working-age, make net contributions to the state (substantially so in Germany, Australia and the UK¹⁹) and have less access to social provision than non-migrants – particularly in the US (ibid: 144-148).

Furthermore, it is very unlikely that the migratory journey is initiated with the purpose of ending it as low-income unemployed, particularly as much migration is by individual family members aiming to provide financial support for families remaining at home²⁰ (Hayter, 2004: 153). Lastly there is no reason to assume that migrants are culturally and psychologically attracted to welfare states. Legrain indicates that migrants normally originate from countries with minimal welfare systems and are not predisposed to use welfare provision (or have what the author describes as “dependency culture”, 2006a; 2006b). The same cannot be said for many immigrants from richer countries (including the very many retirees from northern European countries living on the Mediterranean coastline) – yet they usually are excluded from debates on immigration and policy (including in relation to public services)²¹. Migrants have often travelled long routes overcoming many barriers and thus tend to be self-reliant and self-motivated individuals (including the entrepreneurially-minded; ibid; Legrain, 2006b).

Evidence from Spain suggests a similar pattern. In 2008 prime-minister Zapatero’s economic bureau found that immigrants benefitted from 5.4 per cent of public expenditure despite being a substantially higher percentage (8.8 per cent) of the total population²². Furthermore, due to their very large social-security contributions they provided a net transfer to the treasury of 9000 million euros²³.

Recent research had showed that non-EC migrants had an economic “activity rate” 23 per cent higher than the national average, and were three times less likely to be aged fifty or over (Pajares, 2007: 28 & 33). Migrants’ financial contribution may have been a lot larger if so many of them had not been compelled to work “illegally” (an irony seemingly overlooked by those opposing liberal borders according to the premise of defending the state’s fiscal

balance). Yet despite these above realities claims regarding the “burden” of immigration on the state was a central plank of the opposition’s general-election campaign that same year, which included the claim by a leading PP candidate that casualty departments were being “brought to a standstill because immigrants have discovered the wonders of the national health system”²⁴.

The above discussion shows that the objective validity of the view of migration as a threat to public provision – common in politics and conservative scholarship internationally – is problematic – even highly so. The deduction that immigration over a certain “volume” would create material pressures on the state cannot be rejected completely as a factor promoting state restriction (and contradicting the institutions’ opposing interest in gaining access to new socially-reproduced labour). However, two further conclusions must be signalled. First, the evidence suggests that it is the state and the wealthier layers of society that have the greater objective motivation to avoid fiscal deterioration due to high demographic growth – not the bulk of citizens. This requires further rethinking of the idea that electorates naturally would push restrictive agendas on elites.

Second, the limited material basis for welfare spending helping discourage liberalisation of migration is predicated on the idea that any additional immigration would be unauthorised – as Borjas reveals by assuming that his hypothesised increase in migration would take place *through “ineffective” borders*. But it is precisely when people are compelled to reside and work clandestinely that fiscal revenues and governance declines. This means that in practice greater restriction of migration likely would be self-defeating – although it cannot be assumed that in this regard policymakers and their advisors are guided mainly by economic rationality. As Dale helped identify (in 2.2.3.3), “protecting” the welfare state against the “unentitled” is also a defence of the national social and legal contract and imagined community. At this point it is necessary to turn back to politics.

3.2 The politics of immigration

In order to pinpoint the exact relationship between capitalism and the problematisation of immigration it is useful to examine both the changing attitudes of states to territory, population and Others (particularly those crossing state borders) as capitalism was introduced and developed, as well as incorporate a more grounded theory of the state and

political craft into the analysis developed thus far. These are the tasks attempted in the rest of the present chapter.

3.2.1 Early Modern imagining and making of a people

In the Middle Ages there was little interrelationship between central authorities and the monarch's "subjects". The modern "nation" assumed to be such a natural feature of human identity did not exist as it does today. As Chris Harman describes,

"The monarchies of medieval Europe ... were hodgepodge territories which cut across linguistic divisions between peoples ... There could be a wholesale movement of state boundaries, as marriages and inheritance gave kings sovereignty over distant lands or war robbed them of local territories. There was rarely a single, uniform administrative structure within a state. Usually it would be made up of principalities, duchies, baronies and independent boroughs, with their own rulers, their own courts, their own local laws, their own tax structure, their own customs posts and their own armed men – so that the allegiance each owed to the monarch was often only nominal and could be forgotten if a rival monarch made a better offer. Monarchs often did not speak the languages of the people they ruled, and official documents and legal statutes were rarely in the tongue of the subjects of their laws." (2002: 173.)

Although the mobility of the poor was increasingly curtailed and punished, the immigration "problem" as we know it today has not been identified as existing. In England and Wales as late as the Tudor period (ending in the early seventeenth century) no distinction was made between "subjects" and "aliens" – as would happen later (Anderson, 2013).

Much of this reality transformed significantly in the period historians describe as "Early Modern", beginning with the Iberian conquest of the Americas. The venture was funded by the Catholic Kings of Castille and Aragon (present-day Spain), allowing them to develop an empire that could withstand competition from the Islamic Empire they had defeated militarily on the peninsula. It initiated a new world trade in commodities – including slaves (eventually centred around the commercial "triangle" of slaves-cotton-manufactures between Africa, the Americas and north-western Europe, Marfleet, 2006: 60). States

collaborated actively in this activity, in many regards leading the process – for example by colonising territories (Marfleet, 2006: 60). This “mercantilist” approach as applied by the English state was described by the empire’s leading theoretician Walter Raleigh as: “[w]hoever rules the waves rules commerce; whoever rules commerce rules the wealth of the world, and consequently the world itself” (ibid). In other words, state action in the form of military competition had primacy in shaping economic success.

Mercantilism had an impact on Europe also. Spanish, French and English monarchs adopted “absolutist” rule to balance the political power of landowners with the emergent social muscle of merchants, as well as compete with rivals (Harman, 2002: 174). Relatedly Western European states became more centralised, bureaucratised and militarised (Marfleet, 2006: 100 & 101; Davidson, 2007). Centuries of inter-state conflict followed: including in Europe the Thirty Years war (in the Holy Roman Empire) – ending with the signing of the Westphalia peace treaties in 1648 (Harman, 1999).

Mercantilism could be described as an intermediary stage in the transition from feudal to capitalist mode of production. Even if the associated political transformations were more limited – a disjuncture only overcome after the 1789 French revolution. Yet transformations in the relationship between state and population were taking place. Firstly people’s territorial consciousness transformed. In the Middle Ages people identified with “religiously imagined communities” (as happened in class societies previously or elsewhere) in which a “cosmic order” was centralised terrestrially through the papacy, clerisy and sacred Latin language. This made social organisation “centripetal and hierarchical, rather than boundary-orientated and horizontal” – as would occur in the nation-state later (Anderson, 2000: 13-16). Miscegenation was accepted between “civilised” and “barbarians” – for example in the Spanish Americas – and celebrated when bringing royal houses together (ibid: 13-14).

While global exploration, the Enlightenment, Protestantism and the English and Dutch revolutions helped undermine the legitimacy of the “sacral monarchy” in the 17th Century it left people with a psychological gap – due to the loss of the comforts offered by religious spirituality (Anderson, 2000). This was to be filled with the idea of the “nation”. The nation was – using Anderson’s celebrated term – an “imagined community” because “the members of even the smallest nation will never know most of their fellow members, meet them, or even hear of them, yet in the minds of each lives the image of their communion” (ibid). Like religious belief, nationalism provided “certain meaning to the everyday fatalities of existence (above all death, loss, and servitude) ... offering, in various ways, redemption from

them” (ibid). This was because nations “always loom out of an immemorial past, and still more important, glide into a limitless future” (ibid). Philosophically and politically they offered a “new way of linking fraternity, power and time meaningfully together” (ibid).

There were several reasons why it had become possible to “think” of the nation (ibid: 22). As well as the trade networks created in the Early Modern period, and protestant movements against inter-territorial Catholic rule, the increased state bureaucracy required using a local language as common – later becoming “national” languages (ibid: 39-41; Davidson, 2007). Anderson maintains that the introduction and generalisation of novels and newspapers encouraged an idea of simultaneity-along-time – something he perhaps exaggeratedly treats as “essential to the genesis of nationalism” (Anderson, 2000: 24-34; Davidson, 2007). Likely more important was the process of increased state administration of the population under absolutism and mercantilism – a process Anderson identifies but others develop more fully (see Soguk, 1999: 68). The existence of such administrative social relations (and probably the role within these of local middle classes) probably best explains how the continental project of Bolívar and other “Libertadores” quickly fragmented into the states that have formed modern South America (Anderson, 2000: 49-57).

Transformations in attitudes to the state and territoriality inevitably accompanied the rise of the national idea:

“In the modern conception, state sovereignty is fully, flatly, and evenly operative over each square centimetre of a legally demarcated territory. But in the older imagining, where states were defined by centres, borders were porous and indistinct, and sovereignties faded imperceptibly into one another” (Anderson: 19)

The idea that states – as well as monarchs – were sovereign became enshrined in inter-state agreements, such as the Westphalia treaties that ended the Thirty Years’ War. (Soguk, 1999: 73).

Proto-nationalist expulsions

Two forced migrations took place in the Early Modern period that illustrate transformations as well as continuities in the relation between states and peoples. These were the expulsions of the “Moors” from the Iberian Peninsula between 1492 and 1609, and the

expulsion of the French Calvinist (Huguenot) minority from Catholic France in 1685 (Flesler, 2008: 6-8; Soguk, 1999: 66-71). Both are briefly outlined and compared here below.

The area – now Spain – united through the marriage of Isabelle (Castile) and Ferdinand (Aragon) and the military conquest of Granada in 1492 had been under Islamic rule for centuries after the eighth century – lasting until 1492 in the case of the Emirate of Granada. There had been a high degree of conversion and cultural emulation by the local population, and large numbers of Jews settled – attracted by a regime of tolerance towards religious minorities (Flesler, 2006: 7, 65 & 66). Under the new Catholic rule, however, Muslims and Jews were forced to convert. Many tens of thousands of Jews left the peninsula, and the very large numbers of converts (“moriscos” in the case of ex-Muslims) were treated with mistrust – leading to uprisings and rebellions (ibid: 6 & 7). Eventually the moriscos – meaning “little moors” – were expelled from areas such as the Valencian countryside – decimating the local population and leading to economic collapse (ibid: 8). According to Flesler, “proof” of Moorish identity “increasingly became located in genealogy and ‘purity of blood’” (ibid: 7 & 9).

The French absolutist state of in the sixteenth and seventeenth centuries has been identified as having created the most developed centralised administrative, legal and police systems of its time. Foucault describes these as performing “biopolitical control” and Soguk that they for the first time approached the population as a political and economic problem (Soguk, 1999: 68). This was the context in which the state inspired sectarian attacks (“dragonnades”) against the Huguenots and then expelled two-hundred thousand from the country²⁵ (ibid: 70; Marfleet, 2006: 103). The whole process was meant to consolidate and strengthen French “sovereignty” and (in Zolberg’s words) “perfect the most powerful state in Europe” (Soguk, 1999: 70). The result was to recreate its territory as “a bounded exclusionary space” (ibid: 72).

The two cases described could be understood as continuations of the episodes of religious cleansing that occurred in the Middle Ages. However, they also represent significant departures from these. In both cases a homogenised religious identity was imposed on society. In the Iberian case, by the beginning of the seventeenth century this was framed in terms of innate (even ethnic) difference – even if there were limits to this²⁶ (Balibar, 2002: 52 & 53). Jacobson describes the worldview exposed by the Huguenot affair as “protonationalist” and this description could be extended to Spain in its Imperial phase (Soguk, 1999: 70 & 73).

Yet the Early Modern period retained many medieval attitudes towards territoriality and population. Rather than being treated as a “problem” (or even “immigration”) inwardly displaced people still were seen as assets²⁷ (ibid: 63). In the sixteenth century southern European craftsmen were encouraged by northern states to resettle in the latter (ibid). 100,000 Huguenots were given asylum in the British Isles because of their trading, craft-making and military backgrounds (ibid: 104; Soguk, 1999: 64, 70 & 103). As well as aiding English military adventures and development – including its slave trade, taking in the refugees weakened France – then England’s geopolitical competitor (Marfleet, 2006: 104). Another consideration was that their Protestantism would be beneficial to the construction of England’s own homogenous state, ibid: 103).

In conclusion, ideas of territorial belonging and non-belonging were developing and starting to influence the behaviour of rulers leading to the emergence of proto-racist cleansing. Yet the phenomenon of “immigration” was yet to be problematised per sé.

3.2.2 Creation of the nation-state, citizens and “foreigners”

When in history national consciousness arose is an open question but it was not only hoisted on society from above. Indeed the national idea was a strong feature of the manifestos of both the English and French revolutions. Such programmes assumed that the rights demanded would be defined within the state (Marfleet, 2006: 100 & 101). However, it was only through the 1789 French uprisings (a revolution by both the popular and middle classes that ended up mainly benefiting the latter social group) that the nation state meaningfully came into existence. Indeed the revolution can be seen as a pinnacle in processes of national construction (Soguk, 1999: 80 & 81). The revolution ended aristocratic privilege and the “divine right” of monarchic rule, creating a new legal and political framework brotherhood based on formal abstract equality and freedom – even if both were formal and abstract rather than real (Harman, 2002: part six chapter two; 2.2.3.3). Its long-term impacts include the ending of internal customs posts, the creation of a uniform national administration, and “above all, the determination of government policy in the light of bourgeois goals rather than dynastic or aristocratic ones” (Harman, 2002: 300).

However, the new system of governance was based on a state-nation-citizen hierarchy and (in Brubaker’s words) “[b]y inventing ... the legally homogenous national citizenry, the revolution simultaneously invented “the foreigner” or at least gave the term a

psychological charge that it previously lacked (and not only because it became associated with the deposed elites leading the attempts at counter-revolution from abroad; *ibid*: 280; Soguk, 1999: 75-77). The issue of whom “the people” included was one of the most divisive among revolutionaries (Davidson, 2007). Before 1794 the insurrectionary process involved masses of the poorest, and its politics were “cosmopolitan” and inclusive: for instance when the Jacobin-dominated national convention abolished slavery in response to the Saint Domingue (Haitian) slave insurrection (Harman, 2002: 311). However, in a context of counter-revolutionary activity and internal conflict in the revolutionary camp, the state became more authoritarian, centralised and violent (culminating in the dictatorship of Napoleon Bonaparte; *ibid*: 282-300). Alongside this grew a generalised suspicion towards the intentions of foreigners. The new nationalism was expressed in the words of revolutionary leader Saint Just: “whatever was outside the sovereign was an enemy” (Soguk, 1999: 78). From 1792, foreign residents, such as Irish traders, were harassed and persecuted and much pressure would come to bear on linguistic minorities. When conflicts arose with other states, this sometimes led to exclusions from the territory (*ibid*: 79; Marfleet, 2006: 101).

Both the nation state and its exclusive attitude to those deemed “outsiders” spread internationally over the following century. Emulation of French modernisation was encouraged by the many military successes of Napoleon’s armies (“organised and motivated in ways established during the revolution”, Harman, 2002: 300). Over the following historical period the modern nation-state would be adopted “with varying degrees of self-consciousness” and “to a variety of social terrains” (Davidson, 2007).

After 1789, the creation of a bounded French state rapidly was mirrored in Britain. The latter territory had already undergone its own revolution (in 1642-1651), helping introduce capitalist farming and weakening aristocratic rule, and for a century the British state had been France’s military rival (Harman, 2002: 233). In such a context, Britain responded to the creation of the French Republic by introducing its first Aliens Acts, to which further laws were added during the Napoleonic Wars (1799-1815; Marfleet, 2006: 101 & 102). These laws were revoked after the two countries agreed peace in the 1820s (*ibid*). As well as these developments suggesting emulation of the new France’s tendencies towards foreigners, the notable link between immigration restrictions and geopolitical competition suggests a connection between the competitive state system and the problematizing of people’s movement.

Over the following century modern nation-states developed across Europe and beyond, sometimes through active rebellion – as in the case of the American Civil War, in other cases through elite-led modernisation (Harman, 2002: chapter 10). The aim was increasingly to build urban industrial societies, which required – as described by Ellen Meiksins-Wood – a “legal and political order” that could “enable capital accumulation, and ... preserve social stability” (Callinicos, 2009: 78). Such an order was “inconceivable without clear territorial demarcations and sharply defined jurisdictions” (Meiksins-Wood in *ibid*). Civil rights – including equality of individuals before the law and the growing right of suffrage – were a component in the new political state system. However until the twentieth century “human rights” would not appear in legal statutes, declarations and treaties, and rights were granted only by nation-states to “their” citizens (Marfleet, 2006: 102).

Because urbanisation and commodity production were built on antagonistic social relations, ruling groups required neutralising and derailing challenges to their power (a conflict heightened by geopolitical rivalry between state elites). A prominent ideological and political tool for such purposes was *nationalism* – “an identification with traditions said to define the qualities of [“one’s”] nation-state as against Others” (*ibid*: 101). For Davidson, the historical context favoured this ideology:

“Industrialisation and urbanisation produced the changes in human consciousness that made nationalism *possible* (for the subordinate classes), as well as creating societies that made nationalism *necessary* (for the dominant class”; 2007)

Nationalism, racism and the first immigration controls

Before the mid-nineteenth century nationalism tended to be a “rallying cry for those fighting for liberation” against Napoleon’s expansionism and the old order that, after France’s defeats, regained control in Europe. After 1848 “[a] different sort of nationalism arose alongside and in opposition to this old variant, propagated from above both by old monarchies and by newer capitalist rulers” (Harman, 2002: 389). This developed alongside and in response to growing attempts to gain suffrage and improved social conditions among a rising industrial working class. It received further encouragement from a growth in international competition between states (and national monopolies and cartels), which during the Long Depression (187-1896) led to a “Scramble” between the powers to colonise Africa. and the first big economic crises of the capitalist period.

In Britain, Germany, Russia and France

“[g]overnments, newspapers [now enjoying mass circulation], industrialists and financiers threw their weight behind the propagation of such nationalism, proclaiming the common identity of the ruling and exploited classes of each country – insisting they were ‘kith’ and ‘kin’ even while one lived in luxury and the other sweated or even starved.” (Ibid: 390.)

In the British Isles the combination of such discourse with racism towards the Irish and other groups and exclusive Orange Protestantism in Northern Ireland and Scotland was used to divide social struggle and help channel the new electoral politics in ways that did not threaten elite hegemony (ibid: 388).

An adequate examination of the issue of “race” is beyond the scope of this research. However, it must be mentioned that imagined nations developed “hand in hand” with the imagining of “races”. Indeed when nations were created the notion of being of the “English” or “Spanish race” (etc.) contributed “to constituting [political community] by producing the fictive ethnicity around which it is organised” (Goldberg, 2002: 48 & 49; Balibar, 2002: 42).

For Goldberg, race,

is integral to the emergence, development and transformations (conceptually, philosophically and materially) of modern nation-state. Race marks and orders the modern nation-state, and so state projects, more or less from its point of conceptual and institutional emergence. (Goldberg, 2002: 4).

Pseudo-scientific racism was a central ideological tool for the modern state to be able to continue organising and benefiting from slavery and the colonisation of territories outside Europe²⁸ (Miles & Brown, 2003: 31). The secular fatalism of racial ideology could add a further intensity to nationalism: allowing it to develop in extreme directions. As Benedict Anderson describes,

[t]he view that a nation was ... was a body of people related in blood, with a common history and common destiny was a powerful means of mobilising the masses in times of war (Anderson, 1987: 15).

Facilitating gaining support for and participation in wars in defence of the “fatherland” became increasingly sought due to the greater tendency for conflict arising from a more competitive international panorama. As well as states being founded with “racially conceived sets of powers”, Goldberg describes them as evolving within “the crucible of whiteness – even when also incorporating a degree of multiculturalism (2002). This view seems logical and overlaps with other historical appreciations (Balibar, 2002; Miles & Brown, 2003).

In the late nineteenth and early twentieth centuries in the more economically “backward” Balkans and Middle East a destructive combination of nation-state construction, ethnic categorisation of populations, and inter-state conflict were factors in many episodes of mass forced migration and “cleansing” of minorities. War between Russia and the declining Ottoman Empire led both sides to carry out annexations, as well as dispersions, expulsions and massacres (Chatty, 2010: 89, 283 & 291). Following a long period of rule characterised by considerable religious “cosmopolitanism”, the Turkish Empire slaughtered a million Armenians and forced many more to leave the country (ibid). Both the demise of that empire and the Austro-Hungarian led to nationalist wars and the mass displacement of peoples (Romanians, Greeks, Bulgarians, and Turks – seven million of whom settled in Turkey or other Middle Eastern states between 1875 and 1925; ibid: 87 & 289). The political objective was to “make real the imagined homogenous nation-state” by matching political borders with “ethnic” ones (ibid: 21, 89 & 90). Such a process was not confined to this region: more generally – as Miles identified, “[t]he formation and reproduction of the nation state is ... often secured at the cost of stimulating emigration” through either expulsion or exodus or a combination of both (1993: 114).

Until the 1880s international migration was unregulated (Castles & Miller, 2013: 57). Then, selective restrictions were introduced aimed at Jews (in Europe) and Asians in the “settler” states (the United States, Canada and Australia). These often followed nationalist and racist agitation. (Ibid: 57 & 58; Marfleet, 2006: 71, 114-121). Yet overall migration continued growing and in the first decade of the twentieth Century eleven million international migrants resided in Europe and North America (Marfleet, 2006: 71). Indeed between 1800 and 1930 a total of forty million Europeans migrated permanently overseas, and very large migratory movements took place *between* European countries and of indentured Asians to the Caribbean, Americas and Africa (Castles & Miller, 2003: 55-62). In the words of the migration historian Zolberg, “the uprooted originated from every corner of the globe and migrated wherever land or work might be available” (Marfleet, 2006: 71).

Such mass movement ended after the First World War and (particularly) world economic slump that began in the late 1920s. This was not just because there were less jobs to attract migrants. Public hostility to “aliens” grew and states erected greater barriers to immigration (ibid: 71-72; Castles & Miller, 2013: 63). Asylum emerged as a distinct process but this too was restricted – notably in the United States to where many Jews tried to flee from Nazi Germany (Castles & Miller, 2003: ibid). In response to the Depression states closely regulated immigration as they did their currencies, interest rates and investment. In the US mass expulsion of Mexicans took place (Marfleet, 2006: 85). International migration fell to be a fraction of what it had been decades before (ibid: 73). Substantial levels of immigration did not return to core countries until world expansion began again after the Second World War, when global economic growth meant a shortage of labour in core economies and a need for states to stimulate and manage bringing migrants from their ex-colonies (ibid: 76-80). Global recession in the 1970s and neoliberal structural adjustment programmes became “push” factors propelling emigration from poorer world regions, which was met by renewed state controls on immigration (ibid: 82-85).

The “nationness” and liberalness of states and the drive for immobility

The account provided of the rise of modern states and their territorial management of population suggests that *the immigration “problem” emerged as a corollary of the emergence and international reproduction of the nation-state*. Christian Joppke therefore offers a crucial observation that “[t]he principle of sedentariness” driving its problematisation “is not only grounded in the stateness, but also in the nationness of modern nation-states” (Joppke, 1998a: 7). He concludes that the French revolutionary process “revalued the membership of modern states as democratic citizenship, while providing a potent justification for the exclusiveness of states” (ibid). Such an idea overlaps with Marfleet’s observation regarding the same early-modern epoch:

“[t]he higher the profile of the nation state, the higher was the profile of the migrant. The more that there was of rights, the more there was also a focus upon those who derived their right elsewhere – upon ‘aliens’” (2006: 102).

In other words, nationness and Othering are not mere legitimacy props for states (particularly, Joppke adds, in those that have adopted redistributive *welfare* systems, 1998a:

7). Indeed the scholar goes as far as concluding that in “liberal states” rejection of immigration is “inherently popular” – leading to a “confounding” of “the established left-vs.-right perspective” (ibid).

Joppke’s summary and the historical overview provided in this sub-section have the virtue of not reducing nationalist Othering as simply being a “Machiavellian” strategy hoisted on society by elites (and therefore abide by Dale’s warning in 2.2.3.3). Furthermore, the view differs from Boswell (and to a lesser degree Dale) by seeing the attitude of states to immigration primordially in terms of states’ self-legitimisation (or hegemonisation). In so doing the analysis aids comprehending the frequent receptiveness of non-state actors – including the subaltern classes – to anti-immigrant discourse and practice, and the many episodes in which civil society has driven greater restriction of mobility (including the agitation by American unions against Chinese labour in the late nineteenth Century; the “nativist” campaigns against southern and eastern European immigration that won more exclusive quotas in the 1920s; and the “anti-Dago” riots in Australia that were followed by new restrictions on foreign employment and land ownership a decade later; Castles & Miller, 2003: 63; Marfleet, 2006: 107 & 115).

At the same time, Joppke overstates his case by treating popular anti-immigrant sentiment as “inherent” to liberal states. Feelings of attachment to a particular “nation” are mediated and sometimes weakened by sociological experiences and identities including those related to religious belief, gender, class, race, and cosmopolitanism. Because vertical social relations always potentially undermines belief in membership of a “horizontal” community logically speaking, nationals will tend to only *partially* see themselves as being defined by nation and can prioritise other non-territorial identifications (see 3.2.3 for more discussion).

Moreover, hostility by civil society towards immigrants – and the larger “racial” minorities associated with particular migrant groups – has not been a constant variable. The appeal of opposition to migration and multi-culturalism have varied over the decades and centuries. There have also been historical moments defined by solidarity with refugees and other migrants. As well as the recent cases of solidarity with refugees and migrants in Spain and Europe cited in 1.2.1, white British have joined Irish, Jewish, Caribbean and Asian migrants and their children in mass mobilisations against racism or for social justice on several occasions²⁹. This suggests that anti-migrant attitudes are much more contingent than is assumed by Joppke and other liberal political scientists (2.1.2; 2.2.1).

The exaggerated quality of the scholar's observations also may be linked to his lack of qualification regarding modern states' "*nationness*" (and implied assumptions that democracy, citizens rights and the social contract are fully developed and meaningful in the modern world). In practice as well as legal rights being abstract and their application being strongly mediated by structural interests (as discussed in 2.2.3.3); democracy is limited to parliamentary elections – excluding key social spheres such as the workplace – and exercised sparingly (every four or five years); and redistribution of society's resources through the welfare state is limited – possibly being more characterised by horizontality (the active sections of the working majority to the non-active sections) than vertically (from high to low earners³⁰, 3.1.4.2). The high degree of democratic citizenship reached in the early years of the French revolution can be seen as a temporally very limited historical example that began collapsing once the different socio-economic interests of the different classes (and related wings of revolutionaries) began to express themselves in differing political objectives and strategies.

A final problem is that exclusive nationalistic attitudes towards foreigners can be found in non-democratic states (2.2.1). A clear example is the Nazi regime in Germany; contemporary instances include attitudes to Sub-Saharan Africans in North African states (including Egypt, Libya, Tunisia and Morocco, see 5.1.2). It can therefore be concluded that while the liberal and/or social-democratic political framework can relatively easily provide a foundation for political opposition to immigration, which can conflict with national labour and demographic needs, the substantially limited content of this frame also means that immigration politics is unpredictable and can evolve in welcoming (as well as exclusionary) directions.

The shortcomings and oversights described are related to the influence of formal-political rather than deeper political and economic analysis. An exception is Joppke's conclusion that exclusionary political tendencies are rooted in the "*nationness*" of states, which shall be examined further in the following sub-section.

3.2.3 State, nation and Othering

For Ralph Miliband the theory of the state is also a theory of society and the distribution of power within it (1973: 4). This shall be the approach applied below. Engel provides a useful starting part in his study of the state (and the family) in different class societies. For him,

rather than states being neutral bodies representing the whole of the territorial “community” they were dominated by the dominant social layers. For Marx’s close collaborator, the state arose “out of society” but became a power above society, “alienating itself more and more from it” (Engels, 1973: 327). Studies coincide that the first states emerged after humans first developed the agricultural and craft-making capacities to produce a surplus that could be appropriated by a minority – allowing classes to emerge (and encouraging armed conflict between between tribes and states; Harman, 2002: part one). Engels consequently describes the emergence of states as being the,

“admission that ... society had become entangled in an insoluble contradiction with itself, that it has split into irreconcilable antagonisms which it is powerless to dispel. ... [I]n order that these antagonisms, these classes with conflicting economic interests, might not consume themselves and society in fruitless struggle, it became necessary to have a power, seemingly standing above society, that would alleviate the conflict and keep it within the bounds of ‘order’” (Engels, 1973: 326 & 327)

In modern (liberal) states the repressive role described can be detected relatively easily in relation to immigration “management” (concretely the policing, detention, deportation and occasionally killing of migrants – see 5.1.2 for Spanish examples). Yet the relationship between such states and “their” civil society can appear more harmonious, even (as has been seen) with states being viewed as a crystallisation of the aspirations of civil society. Marx and writers inspired by his writing have developed put forward an opposite view of the state-civil society relationship (as well as accounting for its perceived inversion). This shall be outlined in the rest of this sub-section.

As well as “generalised commodity production” determining the emergence of labour mobility (3.1.2), this activity (by “atomized interdependent producers”, “governed thru competition” and requiring “‘free and equal’ exchange”) forms the basis of modern institutional frameworks and related ideologies (Dale, 1999: 283). Consequently for Marx states (and sub-states) must ensure the following: recognition of individuals or companies as “legal subjects” able to freely perform interactions; enforcement of property rights so that individuals only can control “use values” through ownership or exchange; regulation of a common criteria of “exchange value” – objectified in money – to guarantee that exchange is of equivalents; satisfaction of the conditions and means for production and exchange to take

place (Harvey, 2007: 290 & 291). A working system of taxation and redistribution also is required (Barker, 1978).

These kinds of,

“tasks, above all the constitution and arbitration of contracts and the enforcement of exclusion (right), require a segment of society to be ‘separated out to act as the universal force that objectifies all particular rights’ (Kay & Mott ...). In practice, such unitary authorities take the form of states.” (Dale, 1999: 284)

This has two implications. First, generalised exchange necessitates running society at least to some extent according to the “bourgeois” notions of “equality”, “freedom”, “justice” and “rights”. (Harvey maintains that such ideas therefore cannot be seen only as ideological “tools” but must be taken as genuine “bricks” in the edifice of the capitalist state, 2007: 291). Second, while the feudal state was built on system of state corporatisation of “estates” and governed directly by aristocrats and landowners, *the contemporary state must be separated from capital* (Joppke, 1998a: 23; Miliband, 1973: 55). For this reason it often has been governed by people of middle-class or upper-middle-class origins (even if this has varied over time and country and if sections of the state apparatus have a more direct relationship with business, Miliband, 1973: 53-58; Pashukanis in Barker, 1978). In his polemic with Hegel, Marx described this state detachment (and the related separation between “politics” and “economics”, and “public” and “private”) as a direct corollary of the “estrangement of individuals” arisen in the new republics (Colletti, 1992: 33 & 34; Marx, 1992). In other words the form and workings of the state was determined by social relations in civil society; not the other way round – as Hegel affirmed (Marx, 1992).

The (partial) separation of powers between the government, administrative bureaucracy, judiciary, military, police and sub-state administrations further reinforces the distance between state and civil society by preventing the state from being monopolised by one fraction of capital (Harvey, 2007: 294; Miliband, 1973: 49). The state’s appearance of neutrality from particular societal interests is a key factor allowing modern states to be imagined as *nation-states* and representing the “common interest” and even the “universality” of society – as Hegel maintained (Marx, 1992). However, national,

“unity or community has to be *abstract* ... because in the real, fragmented society a common or genuine interest can only arise by disassociation from all the contending private interests” (Colletti, 1992: 35).

This means that the real divisions in society must be denied “value and significance” (ibid).

At the same time, Marx also acknowledged reasons for Hegel’s (and others’) “fetishisation” of the state: maintaining, as paraphrased by Colletti, “it is not simply the theories of Hegel ...which are upside down, but reality itself”³¹ (Colletti, 1992: 37 & 38). In other words, there is a logic to state fetishisation – even if one based on an inversion of reality, encouraging its propagation in society. Gramsci takes this further by pointing out that, once created by bourgeois civil society, the modern state acts back on social and productive relations, becoming their prime organiser (helped by “enwrapping around it”, interpenetrating, coordinating and directing religious organisations, media, charitable organisations, union leaderships and other “civil-society” groups, Thomas, 2009: 30 & 31; Gramsci, 2007). His and (particularly) Marx’ observations provide extra understanding as to the degree of attachment people have to nation-states – whether existing (as in the Spanish case) or aspired to (as in the case of Catalonia for many of its inhabitants).

The democratic state as capitalist state

It is self evident that the actuality of the state is opposed to its inverted reality. This means that the “basis and content” of the state “inevitably remains civil society with all its economic divisions” and that “beneath the abstract society (the state), real estrangement and unsociability persist.” (Colletti, 1992: 35.) Because society is structured according to greatly uneven private ownership of property and associated class antagonisms “[t]he capitalist state cannot be more than an instrument of class domination”, acting to coerce and manage the subaltern classes (ibid: 37; Harvey, 2007: 292; Dale, 1999: 283 & 284). Harvey adds, “[i]f it were otherwise, capitalism would not sustain itself for long” (2007: 292).

Regarding the nature and dynamics of “democratic” states, several observations can be made. First, states’ behaviour is conditioned by the domestic drive to accumulate capital. In (limited) financial terms this is because, “the capacity of the state to finance itself through taxation or borrowing depends on the state of the [national] economy.” (Block in Callinicos, 2009: 85.) States cooperate with “their” capital to compete internationally with other states-capitals (particularly since business concentration and expansion led to the emergence of

monopoly and combined business ventures closely linked to states; Bukharin, 2003). Such a role helps condition both government policies (including in the areas of fiscal affairs, social order, welfare, labour, diplomacy and defence) and the attitude of the state towards civil society and social-relationship between state managers/government and their employees.

This leads Block to characterise the state-capital separation as being articulated around a “division of labour” between “those who accumulate capital and those who manage the state apparatus ... to reproduce the social order as a whole” – a view similar to Dale’s (2.2.3.3; Callinicos, 2009: 85). The viewpoint dovetails with observations from a study by Ralph Miliband on the people that run the modern (British) state apparatus (1973). Concretely the Marxist political scientist identified the upper layers of the bureaucracy (judges, military commanders, senior civil servants and directors of state finance) as sharing social origins and (elite-private) schooling with industrialists and financiers (Miliband, 1973: 47 & 48). He identified their class background and connections as influencing advisory and administrative processes within the institutions, which are “always political as well as executive” (ibid). He added elected representatives often came from similar backgrounds and developed some shared political culture through cooperating in assemblies and commissions (ibid: 50, 60 & 61).

A third point is that the working classes generally preferred political option – social democracy – is highly compatible with satisfying the formal demands of capitalist production (even, Harvey suggests, being “well equipped” to do so because of its relative defence of public provision that benefits the short- and long-term reproduction of labour power, 2007: 294; 3.1.4). Added to this, the dominant social class may accede to making other concessions that are not in its short-term interest “[i]n order to conserve its hegemony in the political sphere”, but, as Gramsci states, whenever “said sacrifices and such commitment do not effect the essential” (ibid: 295).

Lastly cooperative relationships have developed between fractions of employers and politicians, as they have between different firms. This has led to the emergence of “industrial complexes” that facilitate developing infrastructure, obtaining financing and bringing together factors of production, and also can exert political influence through lobbying (including in “policy networks”) or through members of normally only two government options (Harman, 2009: 109; Miliband, 1973: 5). This can lead to the autonomy of the institutions being significantly compromised. However, lobbying is not the main cause of the “tendency for the state to act in the interests of capital” but serves “merely to reinforce this tendency” (Callinicos, 2009: 86).

Permanent nation-statecraft and the problematisation of migrants

The analysis developed above in 3.2.3 provides an insight into why people are open to seeing themselves as part of a national community. However, if it is further developed, and Foucaultian research on “statecraft” and migration incorporated, the exclusionary dynamics associated with such communities can more easily be comprehended. This shall be performed below.

As well as the idea of the national community requiring “neglecting or transcending genuine [individual or class] interests”, it serves to oppose the exertion of such interests. Specifically for the young Marx “the ‘general interest’ of the community at large ... sanctifies and legitimizes its disunity” – by undermining majoritarian class identification (Colletti, 1992: 36 & 37). The unchanging contradiction between the abstract-national and genuine interests leads the state to have to work permanently to maintain their nation-ness and reproduce the hierarchy between state, nation and citizen – a process that Soguk describes as “statecraft” (although could more accurately be labelled “nation-statecraft”; 1999: 39).

Using Foucault and Appadurai, Soguk provides a compelling account of how the “bounded [national] citizen” is formed through a process of “people production” (1999: 39). This involves everyday stasised governance combined with pedagogy and narrative (Soguk, 1999: 40). Popular and institutional discourses of “problems” and “dangers” are stasised (or sub-stasised) and “regimented” as problems for the nation (ibid). In such a way borders such as between the USA and Mexico or Spain and Morocco have the function of “carefully orchestrat[ing] the representation of difference to affirm the state” – as do whole national asylum regimes (ibid: 40 & 41). Relatedly and with less complexity, Miles affirms,

“[t]he reproduction of the nation as an imagined community is effected by a policing by the state of its spatial and cultural boundary in order to determine who belongs and who does not.” (1993: 114).

This may be done in a way that seeks to achieve “perceived linguistic, religious, ethnic and cultural homogeneity” (Garcés-Mascareñas, 2012: 23 & 24) – a reason why Hollifield believes immigration “policy and politics are driven in no small measure by attitudes and beliefs shaped by national cultures and histories” (2000: 172).

As well as through governance, nation-statecraft is produced through discourse, which is informed and legitimised by state narratives including mythologies on the historical trajectory of both the nation and specific groups of Others to which the people is (positively) compared (Soguk, 1999: 40 & 41).

Bounded people production requires reinforcing or even creating “banal nationalism” in society (2.2.1). It must be a “silent” process because the state “community” cannot acknowledge it is permanently self-constructing (or re-constructing) without undermining its claim to represent a “natural” people and thereby challenge its “reason for being” (Soguk, 1999: 39 & 40). Othering can help overcome this foundational problem. This is because it is a *negative* and thus inherently *less distinguishable* vehicle through which to imagine the contours of the nation (Ashley in Soguk, 1999: 40). Yet if it offers the shortest route to short-term resolution it is also Sisyphean – as the contradiction between the abstract nature of the national community and social reality means it has to be continually re-travelled. Such an analysis offers a theoretical account of why immigration is repeatedly problematized by the contemporary integral state. It reveals the capitalist roots of the political drive to restrict and discursively oppose immigration – even if that leads to contradictions with the material (labour and demographic) requirement for immigration.

A final point is that the general view of statecraft used by Soguk can be seen to overlap with Louis Althusser’s alternative view of social reproduction to that examined in 3.1.4. For the French structuralist, the future continuation of capitalist production requires the state to not only regenerate “*the productive forces*” (as socialist feminists identify) but also “*the existing relations of production*” (Althusser, 1971). In other words, for the author social reproduction is immaterial – cultural and ideological – as well as material, and fundamentally rests on obtaining “a reproduction of [labour power’s] submission to the rules of the established order” (ibid). It has already been advanced that a key mechanism for gaining consent among the majority is the perception of meaningful citizenship, which benefits from a degree of “social contract” (3.1.4.2; 3.2.2). However limited the “distributive justice” involved in this, Walzer maintains it still

“presupposes a bounded world within which distributions take place: a group of people committed to dividing, exchanging, and sharing social goods, first of all among themselves” (in Garcés-Masareñas, 2012: 23)

Authors both hostile and sympathetic to immigration identify immigration as undermining such a “contract”. Sandro Mezzadra describes contemporary migration as creating a crisis for the “inclusive and integrative model of social citizenship that has been asserted in the ‘Occident’ after the World Wars” (2004: 273). While complaining about the financial impact of immigration on welfare-state societies, Borjas added that it also undermined “the political legitimacy of the social contract that created and sustains the welfare state” (in Legrain, 2006: 142). Belief in the “rule of law” is also an ingredient in maintaining the existing social order, and this can be undermined by mass unauthorised migration (Rosberg in Cohen, 1987: 174).

If Soguk’s ideas are combined with these last observations it can be concluded that excluding migrants from core activities in society (such as welfare provision or voting) is about the necessarily constant need to reaffirm national identity and bounded citizenship, particularly when this can be done in ways that reinforce national mythologies. A final point is that way by which immigration currently is configured can further enhance problematisation of its protagonists. Philip Marfleet points out that the features of immigration that make it attractive economically – for example being by people from poorer regions that are more willing to work for low wages – are the same that make it deemed unsuitable for incorporation into the nation (2006: 116). This issue shall be returned to in the Chapter Five.

3.3 Conclusion

The review of literature related to immigration paradoxes in Chapter Two began to answer some of the research sub-questions. The historical and political analysis in the present chapter has travelled further to suggest a general theoretical basis for immigration paradoxes. It clearly suggests that the root of these is not liberalism or a state system that operates according to a different logic from capitalism, but stems from a *contradiction within capitalist states themselves*. States require successful accumulation by “their” firms and this operates most efficiently with non-employed labour having the freedom to move but employed workers being encouraged to stay settled. The intrinsic volatility and increasing competitiveness of the capitalist economy compels firms to access reserves of labour from outside states and avoid wage rises associated with labour shortages. Therefore for labour to be able to cross political borders is a permanent requirement for capital and state, which (as Dale implied in 2.2.3.3) must both act according to international as well as national

logics. It also provides large financial savings for the state (and the recipient society) by providing “generationally reproduced labour power”, and because migrant women are playing an increasing role in the daily replenishing of labour power through domestic-labour markets.

Yet because capitalism also relies on an institutional framework that can only gain and maintain its legitimacy through the ideology of “national community”, and such an abstraction is permanently contested due to the existence and assertion of real social interests, the nationness of the state must be continually recrafted. Its boundedness is reproduced through borders and border control. Its internal cohesion is sought positively firstly through promoting and reflecting nationalist ideas, narratives and mythologies; and secondly by providing legal and social rights to “citizens”. It is promoted negatively by presenting and treating foreigners in general and specific national groups in particular as incompatible with such a “community”. Because labour mobility – including across state frontiers – is an economic necessity and aided by associated liberal ideas in law, politics and society, exclusion can only be partial and can be contested. As social (and even legal rights) increasingly have been diluted in the neo-liberal period, governments and politicians are attracted to using migrants as a pretext to negatively reinforce public identification with states and sub-states. Because such a process is occurring simultaneously with a weakening of the social contract, the question remains as to whether it can be undermined by a reassertion of genuine interests by the subaltern classes.

The framework outlined suggests with regards to the research sub-questions that national politics is as important in shaping immigration processes as economic factors but that the two should not be seen as unrelated. Rather states act in what they believe are their and domestic capital’s long-term interests, whereas firms lobby and plan according to more short-term competitive-driven considerations. The framework does give importance to the role of electoral politics but only within certain bounds. Its systemic yet crafted nature suggests that it is more elite-driven than public-led. However, it also recognises that there is a material basis for national consciousness – including its most exclusive variety – implying that anti-immigrant ideas can be well-received if not actively challenged. Davidson’s view that industrialisation and urbanisation produced the changes in consciousness that made nationalism *necessary* for the dominant class, but also *possible* for the subordinate classes could be applied to the desire to restrict immigration (which states *must* adopt and civil society *can* support).

The above analysis contradicts the idea that irregularity is fundamentally a labour strategy practised by states in collusion with specific business interests. However it does not preclude employers benefiting from and policymakers tolerating the curtailed liberties linked to illegal residence and discussed in 2.2.3.2. Irregularity even could be seen as a way to “resolve” opposed long-term (state) and short-term (employer) capitalist interests. However, this only would be a logical policy if the dimensions of illegality were kept within bounds that would not prevent the state from exercising hegemony and maintaining order. Furthermore, it was identified in relation to Catalonia that “gaps” between political promises and delivery can be a fertile ground from which can emerge parliamentary and extra-parliamentary opposition to immigration (1.2.3; Hollifield, 2000: 174).

¹ “obligadas por las constantes inmigraciones y emigraciones de obreros a levantar su sede de un país para fijarla en otro”

² “Mita” was draft labour in Peru.

³ Approximate figure: Accessed 2 September 2015, http://www.slate.com/articles/life/the_history_of_american_slavery/2015/06/animated_interactive_of_the_history_of_the_atlantic_slave_trade.html

⁴ Wallerstein: “Free labour is the form of labour control used for skilled work in core countries, whereas coerced labour is used for less skilled work in peripheral areas. The combination thereof is the essence of capitalism.” (Cohen, 2006: 17.)

⁵ This author limits application of the term to the *male* migrant workforce, however. Women workers – equated with domestic labour – are categorised as “a regular army of extremely cheap labour” – partly because they have less incidence on the conditions of the rest of the labour force (Farris, 2012: 193).

⁶ Also, the authors ignore other ways by which economic expansion undermines business profits: such as increased costs of other inputs – in particular raw materials and machinery – when demand for these grows at a faster rate than supply due to the (same) overall expansion.

⁷ The figure is for persons that worked outside their hometown for over six months in 2014 (Chinese National Bureau of Statistics figure in Wildau, 2015).

⁸ This demographic transformation – it has been reported – has underpinned “fast growth, rising inequality, high savings and investment, big trade surpluses” (ibid).

⁹ Quote is translated by autor from Spanish.

¹⁰ Intra-EU migration in Spain accounts for a minority of foreign settlement in Spain – despite substantial seasonal residence by northern European.

¹¹ Engels, however, did make such a comparison in ‘The Condition of the Working Class in England’, describing Irish immigration as a “cause of abasement to which the English worker is exposed, a cause permanently active in forcing the whole class downwards” (Castles & Kosack, 1972: 6).

¹² In 2005 remittances to Mexico represented (a high) 161 per cent of net foreign direct investment to the country. For Ferguson and McNally, some of this helps reproduce the “two-tier” continental labour market and therefore increases capital accumulation on both sides of the North-South border (2015: 14 & 15).

¹³ Although “the image of the immigrant as male *Gastarbeiter* that was diffused in the 1950s ... has not been replaced by the figure of the migrant as female maid” (Farris, 2012: 184).

¹⁴ This is because, as the Feminist Marxist Lisa Vogel indicates in an in-depth polemic on women’s unpaid labour in the home, “a proportion of the direct producer’s labour may also be devoted to securing the reproduction of other members of the exploited class” where “children, the elderly, or a wife do not themselves enter into surplus-production as direct producers” (2013: 149).

¹⁵ Exactly 90 per cent in 2005 (Taifa, 2005: 10)

¹⁶ This argument has been used by neo-classical economists such as Milton Friedman to argue that publicly funded welfare states act as “distorting mechanisms” preventing extending their normally inflexible programme of free-market liberalisation to international labour markets – an approach that (if taken at face value) conveniently allows arguing for more of the welfare privatisation they support (Legrain, 2006a: 141).

¹⁷ There are some small qualifications that could be applied in the case of the Spanish state. Firstly there are high levels of tax fraud among the most privileged elites, and fiscal policy has become more regressive in recent years (relative increase in non-redistributive consumption taxes, lowering of tax for large corporations, “tax breaks” for investments and charitable expenses (Taifa, 2005: 8-17). Additionally a very large segment of revenue originates from through employees’ social-security contributions and these are taken at fixed non-progressive percentages (ibid). Yet most taxation is “direct” and a large segment of this is through paying income tax, which is relatively progressive (IRPF; Taifa, 2005: 8-16).

¹⁸ The idea of controls being necessary to prevent “outsiders” travelling to take “common goods” at the expense of the local population – including the poorest – is not new. In late Medieval and early modern Britain “vagabonds” (domestic migrants) were treated as the biggest social threat (Anderson, 2013: 13-24). They were denied receiving monasterial, social or parish relief and, after 1575, denied access to “common land” (ibid: 24). Transgressors would be returned or suffer severe punishment (3.1.1). Parish records on the removal of vagabonds often featured the description “likely to prove a charge to the parish”, and mobile paupers generally were deemed a “drain” (Anderson, 2013: 23 & 24). Similarly immigration policy in the US (and Britain) in the early 20th Century sought to exclude

those “liable to become a public charge” (Legrain, 2009: 142.) These historic examples show notable similarities between attitudes towards the right to social assistance for the mobile poor in late-medieval and modern times.

¹⁹ According to Home Office figures, in 1999-2000 the foreign-born population in Britain paid 10 per cent more in tax than it received in spending (a 2.5 billion gain). In 2003-4 the gain was even greater. (Legrain, 2006a: 150.). The vast majority of migrant workers are aged 18-34 years (82 per cent in 2008) and had no dependents with them when they registered for work (93 per cent; *ibid*: 10).

²⁰ This affirmation is part-based on Teresa Hayter’s view regarding people’s migratory expectations: “[o]n the whole most people do not want to uproot themselves, abandon their families, and suffer the hardships and risks of migration to a strange and possibly hostile place in order to do the dirty work of natives” (2004: 153).

²¹ An exception to this is Parella (2006).

²² ‘Los inmigrantes salvan el Estado de bienestar’ *El País*. 16 June 2008, pp.31-32

²³ ‘Los inmigrantes pagan 900.000 pensiones’ *El País*. 29 February 2008, p.16

²⁴ ‘Arias Cañete: “Las urgencias están colapsadas por los inmigrantes”’ *El País*. 8 February 2008. Accessed 31 July 2015, http://elpais.com/diario/2008/02/08/espana/1202425202_850215.html

²⁵ The origins of term “refugee” have been traced to Huguenots (Marfleet, 2006).

²⁶ These include the fact that very young ‘moriscos’ were adopted by Christian families when their own families were forced out of Valencia (Flesler, 2006:8).

²⁷ This was partly because the displaced often had knowledge and resources that could strengthen a state’s ability to develop and compete commercially and militarily (Marfleet, 2006: 61). Migrants were often urbanites – including merchants and artisans – and sometimes were from privileged backgrounds (*ibid*: 63 & 64).

²⁸ Racial ideology also transformed previous oppressions such as anti-Semitism – to become an opposition to “Jewishness” and not “Judaism” (Arendt in Miles & Brown, 2003: 31).

²⁹ Such protests include the New Unionism beginning at the end of the 19th Century, the Cable Street demonstration against Oswald Mosley’s blackshirts in 1936, and similar mass anti-racist protests in the 1970s and 1990s.

³⁰ Mostly political and social rights have also been gained through mass social mobilisation which tends to be stronger when the subaltern classes are less divided by national or racial considerations – suggesting that defending and extending such rights is not helped by opposition to and restrictions on immigration (Harman, 2002).

³¹ The idea can be seen as the precursor to Marx’s theory on the “fetichisation of commodities” – particularly money – produced by the apparent inversion of the causal relationship between commodity exchange and production by “men” (Marx, 1990).

Chapter Four

Catalonia and Spain's new immigration: characteristics; political and economic context

Having advanced an initial abstract theory on the contradictory ways by which state (and sub-state) institutions view immigration it is necessary to test this concretely and empirically – as is performed hereafter in relation to Catalonia and Spain in this dissertation. As has been revealed by the theoretical, historical and international-comparative study thus far, institutional approaches and actions regarding immigration take place in relation to very broad economic and political processes (including 'globalisation', nation-building and general labour strategies). Therefore any "national" case study must take into account the broad state/sub-state economic and political context in which the post-mid-1990s wave of immigration takes place and related policy is formulated and implemented. This is the purpose of the first two sections of this chapter. The third also provides necessary context to aid developing an understanding of the economics and politics of the immigration problem in Catalonia and Spain. However, simultaneously it also forms the beginning of the empirical examination – as it presents and analyses statistical data on the patterns of migrant settlement and employment that have taken place in order to incorporate into the overall analysis the role of subjective decisions by migrants and the impact on these of government policies and other factors.

More precisely the general contextualisation begins (in 4.1) with the general constitutional-institutional and political frameworks of contemporary Spain and Catalonia – paying particular attention to Catalan-Spanish national relations in the period of relatively decentralised "regional autonomy". Subsequently, in order to aid identification of the specific role of migrants within the local economy, in 4.2 there is an analysis of the development of the Spanish economy and labour relations in the period preceding and coinciding with substantial immigration. This sub-chapter focuses on Spain's pronounced economic cycles, model of development, underground economy, "dual labour market", and the impact of the crisis. Where relevant, migrants' specific roles and experiences are incorporated into the analysis.

The third and final section – 4.3 – draws on available official and research statistics to provide a survey of the nature of immigration in recent decades: its size, degree of regularity, origins, employment sector and evolution, and other characteristics. Although the study

focuses more on the political and administrative management of immigration and less on immigration *per se*, the information presented – much in graph form – helps to confidently identify the evolution of policy outcomes over time – aiding isolating the factors influencing policy gaps. Some patterns in Catalonia are presented separately from those of Spain. However, where “regional” differences were not notable, Catalan patterns are assumed within the wider Spanish ones presented, with necessary qualifications signposted.

4.1 Catalan and Spanish politics 1977-2011

Preliminary notes on the Autonomous Community of Catalonia

Catalonia (“Catalunya”) is an official territory (autonomous community, AC) of the north east of Spain¹ - consisting of four provinces (Barcelona, Girona, Lleida and Tarragona). Its 7.6 million inhabitants (in 2012²) make up a substantial proportion of the Spanish population (17 per cent of 47 million³) and are mainly concentrated in and around the Catalan capital Barcelona (a province of 5.6 million inhabitants in 2012⁴). Catalonia is among the richer Spanish “regions”⁵, producing a GDP representing 18.5 per cent of the Spanish total –a slightly higher proportion than its relative population (also in 2012⁶). The vast majority of residents understand Catalan (95 per cent in 1996) and most speak the language (75 per cent in the same year; McRoberts, 2001: 8). As Castilian (Spanish) and Catalan are both derivatives of Latin, it is relatively easy for speakers of either to learn the other language for comprehension at least. It is therefore normally unproblematic to live in the AC speaking only Castilian or Catalan. Non-Catalan speakers include large numbers of people that migrated to the large urban conurbations from less developed Spanish regions before the mid-1970s, as well as very many foreign migrants (see 4.3). Catalan is an official language alongside Castilian.

4.1.1 The general politics of post-dictatorship Spain

The political culture established in the transition period

Spaniards suffered the extreme-right dictatorship of Franco for four decades after 1939. In 1976, with the regime undermined by mass workers' and democratic movements, a "reformist" president, Adolfo Suárez, was appointed, who negotiated a political "transition" with the Socialist, Communist and regional-nationalist opposition (Ysàs, 2006). Together Francoist, opposition leaders and "social agents" – workers and employers' representatives – created a new democratic institutional framework, including the 1978 Constitution, thus beginning a practice of consultation and multilateralism in policymaking that became a feature of politics in much of the following decades (Encarnación, 2008: 2). This has been described in political circles as "the culture of the Transition" (Rodríguez-López, 2015).

Although much scholarly and political analysis of the "Transition" has treated it as a model of peaceful resolution of conflicts –even being described as "the paradigmatic case for the study of democratic consolidation" (Encarnación, 2008: 4), a variety of historical studies have treated the accords as "asymmetrical" (Pastor, 2012: 131) and allowing the continued dominance of traditional elites in the democratic period (Balfour, 1989; Rodríguez-López, 2015; Köhler, 1995; Prieto del Campo, 2005). As described by Köhler, the powerful grassroots labour movement "Comisiones Obreras" (CC.OO.) was treated by its Communist (PCE) leadership as "a bargaining chip" in the political "horse trading between reform and continuity" (1995: 111), and accepted "social peace" in return for promises of social reforms in the 1978 Moncloa Accords (Ibid: 122). This process combined with a period of recession and redundancies – increasing the unemployment rate from 5 to 16 per cent⁷ – to weaken the newly legalised trade unions: membership fell from 26 to 10 per cent of the workforce by 1985 (Prieto del Campo, 2005: 53). The CC.OO. and the other big union federation the Socialist-led UGT (General Workers' Union) would become relatively incorporated into the state-institutional framework – a process further encouraged by state funding of the unions. Mass joining of the new parties did not take place and party membership remained below the European average (Heywood, 2005: 52).

Party politics 1982-2011

Felipe González' PSOE came to office in 1982. It expanded Spain's weak social provision (Magone, 2008: 19) but also embraced much of the economic model established by Margaret Thatcher in Britain (carried out many privatisations and "restructuring) removing state support for much of Spain's heavy industry (Prieto del Campo, 2005: 53 & 54; Marín, 2001: 400-404). In general "Felipism" consolidated and extended the political practices of the Transition – a method described by Encarnación as "corporatist" (2008:2). Prieto del Campo described the government's "formula" as,

reducing all social problems to questions of consensus: a pre-defined consensus favouring the big Spanish capital interests created by the modernising fractions of the Francoist elites. (2005: 51).

However, the Ministries of the Economy and Industry introduced a unilateral major restructuring of the productive sector –leading even the Socialist UGT to back a general strike in 1988 (Marín, 2001: 401, 404 & 411).

With regards to Spain's foreign orientation, in January 1986 Spain joined the European Community (EC). This required implementing "modernisation" reforms that transformed the Spanish economy and society (see 4.2). Because in the following years Spain received much foreign investment⁸ and large "structural funds" aimed at "greater cohesion (economically and socially)⁹, as well as helping cement the new democracy and undermine attempts at political "regression"¹⁰ integration was presented by the PSOE government as a major success¹¹ (Marín, 2001: 370). In May 1986, it was decided in a (very contested) referendum to remain in NATO –thus continuing a pro-Atlantic strategy that was started by Franco during the Cold War¹² (Marín, 2001: 387 & 388; and that was continued aggressively under the conservative PP administration of 2000-2004).

Spain had traditionally had strong political and economic relationships with Central and South America, and these continued. In those regions the González government played a role in political transitions from dictatorships, debt negotiations, and oversaw much commercial investment in the region (Marín, 2001: 353-355). It also led setting up yearly Ibero-American summit meetings that have taken place since the early 1990s¹³ (Magone, 2008: 19; Ministerio de Asuntos Exteriores y Cooperación, 2015). Since Franco regulated it in 1958, 12th October - the day Columbus arrived in the Americas and Hispanic colonisation began- had been celebrated, but in 1987 the González government made it a "national public holiday"¹⁴ (Pastor, 2012: 145). The relationship with Spain's North African neighbours was

more strictly economic – lacking the evident cultural component of some of the American-orientated initiatives. Bilateral agreements were signed with Morocco in 1983 (on trade, militarisation and fishing rights) and 1988; and – after tensions over migratory policy and rights to fish in Moroccan waters – a further agreement between the two countries was reached in 1995 (Marín, 2001: 356 & 357).

From 1984 the government progressively deregulated much of Spain's relatively protected labour market - despite CC.OO. and UGT holding one-day general strikes (see 4.2.1). It also created half a million state jobs and politically appointed tens of thousands of administrators. Arguably, a semi clientelist apparatus was created: by the 1990s 70 per cent of all PSOE members were functionaries or public office holders (Heywood, 2005: 52 & 53). In 1996, after a series of scandals over corruption and the state funding of anti-ETA terror groups in the Basque Country (Heywood, 2005: 42-44), José María Aznar's People's Party (PP) won the general elections – but requiring outside support from the Catalan CiU and Basque PNV parties. The PP (originally under the name Alianza Popular) was set up by one of Franco's ministers and had organic and cultural links with the dictatorship. This was demonstrated when after Aznar won an absolute majority in 2000, policymaking became more unilateral and there were “expressions of the persistence in the party of authoritarian and right-wing habits and mentalities” (Balfour, 2005: 164). From 2000 to 2004, there was a “cycle” of mobilisation by “new social movements” (including demonstrations of over three million people against Spanish involvement in the occupation of Iraq), although there was a consistently positive perception of economic performance among the population (Gramacho, 2007: 211).

The PSOE - now led by José Luis Rodríguez Zapatero- unexpectedly returned to office in March 2004 after voters perceived that the Aznar government had deliberately misinformed them regarding the police investigations into the Madrid bombings days before (attempting to attribute responsibility to the Basque ETA and avoid associations with Iraq)¹⁵. Arguably encouraged by the progressive social movements that had helped the PSOE regain office, the Zapatero administration introduced a series of progressive social and geo-political policies (including the withdrawal of troops from Iraq, the right to marriage for LGBT persons, and the 2005 migrant regularisation process – see 5.2.2.1). The decision over Iraq increased the PSOE's popularity to record levels¹⁶. But Catholic, Spanish-nationalist and other conservative forces held street protests against several socially progressive measures – including liberalisation of abortion law and the (limited) attempt at a peace-process with ETA in the Basque Country. Some of the government's policies were softened; and economic

strategy remained similar to that of its predecessor. This was the politically-volatile (but economically stable) context in which the PSOE introduced the liberal immigration policies outlined in 5.2.2.1.

In 2008 the PSOE won a second term in office with 44 per cent of the vote. Zapatero's initial response to the economic crisis was to favour infrastructure spending to reactivate the economy (and particularly its flailing large construction firms – see 4.2.3), promising he would “never make workers pay for the crisis”. Yet after pressure by the US and European governments, the PSOE did a turnaround and introduced strict austerity measures. These led to a general strike in autumn 2010 and mass square occupations (the “Indignados movement”) in May 2011 (the M-15 movement, Domènech-Sampere, 2011). Support for the PSOE fell rapidly, and the People's Party – now led by Mariano Rajoy – returned to office in November. The other significant party in Spanish politics was the Communist-led United Left (IU), created after the anti-NATO mobilisations of the 1980s. Its share of the vote has remained small but substantial: reaching a peak of 11 per cent in the 1990s and a low of 4 per cent in 2008.

4.1.2 Catalan national politics under regional autonomy

Using autonomy to dilute minority national aspirations

In the last years of the dictatorship Catalonia's national movement, which under the Catalan government (Generalitat) of Lluís Companys had declared the creation of a Republic in October 1934, re-emerged. In the Basque country a similar movement had developed an armed wing (ETA) that was responsible for hundreds of killings –mainly (but not exclusively) of state-security personnel¹⁷. Both national and social movements in the territory were subject to particularly fierce state repression¹⁸ (Prieto del Campo, 2005: 48 & 49). This latter territorial conflict likely reinforced the hostility of the Spanish right had towards minority national rights that went back to before the Civil War (as best illustrated by the attitude of a 1920s minister: “better a red Spain than a broken Spain”¹⁹, Pastor, 2012: 99). This meant that reintroducing Catalan and Basque self-government was a slower and more contested democratisation process than others. After the first elections in September 1977 a mass protest was held in favour of Catalan autonomy (Ysàs, 2001: 284 & 285).

Furthermore, the Spanish Right managed to negotiate a new constitution that prohibited independence (Balfour & Quiroga, 2007: 96 & 97): article two of the text affirmed “the indissoluble unity of the Spanish nation”²⁰ and article eight that, “[t]he mission of the Armed Forces ... is to ... defend its territorial integrity”²¹. In the referendum to ratify the Constitution in December 1978 a minority of Basques and a narrow majority of Catalans approved the text. Finally the new centre-right government (1977-1982; Suárez’ UCD) and the PSOE opposition attempted to “depoliticise and bureaucratise the territorial question” by agreeing to create 17 “Autonomous Communities” (ACs) across Spain²² (Prieto del Campo, 2005: 49; Magone, 2008: 18). The ACs included historic nations with a strong identity and territories lacking any differentiated identity - such as Madrid or Cantabria, and thereby “diluted the specificities of Catalonia, Euskadi²³ and Galicia” (Balfour & Quiroga, 2007: 118). For Magone, the “state of autonomies framework” was “a concession to the Francoist elites, which were afraid of a disintegration of the unity of Spain”²⁴ (2008: 17). All ACs were allowed to elect a president and legislative body and “regional statutes” were negotiated individually.

Using autonomy to build the Catalan nation

Whatever the intentions, the autonomous framework did not end the minority national aspirations inside “the Spanish state” - including the desire for independence among a great many Basques and (particularly later) Catalans²⁵. Catalonia passed its Statute of Autonomy in 1979, giving the Generalitat (Catalan government) jurisdiction over health, social-security, cultural and other policies²⁶. However, unlike the two Basque ACs²⁷, Catalonia was not allowed to have its own tax system, and in the coming decades relatively high net transfers of revenue were made to the Spanish Inland Revenue (Hacienda) –a motive for elites’ support for greater fiscal self-government²⁸. Since 1980, regional elections in Catalonia (and Euskadi²⁹) have normally produced centre-right nationalist governments (even if general elections have been more favourable to other forces, such as the Catalan Socialists - PSC). It appears that part of the success of CiU (and the PNV in the Basque Country) has been that it is seen as a strong defender of the interests of the minority nation vis-à-vis Madrid.

CiU has engaged in “nation building without a state” using the devolved powers available (McRoberts, 2001). In particular under president Jordi Pujol Convergence and Union (CiU) government of 1980-2003 introduced laws and directives that greatly normalised the Catalan language in public life (Kleiner-Liebau, 2009: 76). Public Catalan-language TV channels were introduced (including the most popular channel TV3); in 1998 a Law of

Linguistic Politics established Catalan as the teaching language in schools and other public places (ibid: 77); in the 2000s a Catalan police force (the Mossos d'Esquadra³⁰) was created. From 1993 to 1999, CiU gave parliamentary support to two minority central governments – first PSOE and after PP – in exchange for reductions in tax transfers. This support and its right-wing social policies, which have included the introduction of private-financing initiatives in the health service, have been seen to contribute to CiU's long-term decline. Yet one sign of its hegemony has been that an attack in Spain on Pujol or his successor Mas often has been successfully as an attack on Catalonia itself (Dowling, 2005: 111).

Diverging national projects 1996-2001

After Aznar reached office in 1996 the national tensions that had continued in the post-Franco period –particularly in the Basque Country- became a central political issue in Spain. In the process they revealed the rivalry between the minority nationalisms and the PP government's "constitutional patriotism"³¹ (Pastor, 2012: 156). While CiU and the PNV were giving parliamentary support to the first Aznar administration, they joined with the (centre-left) Galician Nationalist Block (BNG) to sign a declaration calling for a pluri-national Spanish state based on respect for national differences³² (Pastor, 2012: 126) This was rejected by the People's Party government, as it saw Spain as being a single nation - a view that was spelt out very clearly by the Party's 2008 Congress:

Spain is every Spaniard's only historical and political reality ... Constitutional Spain ... is a single nation whose sovereignty corresponds only and exclusively to the Spanish people³³ (ibid: 134 & 135).

This national chauvinism and its concomitant hostility towards "peripheral nationalisms" shaped the conduct of the PP in government - and set much of the pattern for the handling of territorial affairs by the subsequent Socialist administration.

After the popular outrage in response to ETA's assassination of kidnapped councillor Miguel Angel Blanco in 1997, the central government and courts criminalised the Basque independence movement. The central committee of the pro-independence Herri Batasuna was imprisoned. In 2003 after leadership and organisational changes of leaders, the party - renamed Batasuna—was illegalised; and newspapers were shut down (Kleiner-Liebau, 2009: 58; Prieto del Campo, 2005: 58 & 59). Under Zapatero there was little change in relation to

Basque politics. More leaders were imprisoned, which included Arnaldo Otegi - recognised as having led the process that culminated in ETA's definitive ceasefire in 2011. Officially these were legal responses to organisational links with ETA but this view is very problematic. In 2010 the National Court overturned the closure of *Egunkaria* - the only fully Basque-language daily newspaper, denouncing "the narrow and erroneous view that everything to do with the Basque language and culture" had been assumed to be "promoted and/or controlled by ETA" (Audiencia Nacional, 2010). An international campaign supported by ex-presidents and Nobel Prize winners has called for the release of Otegi for his role as "leader of the peace process"³⁴.

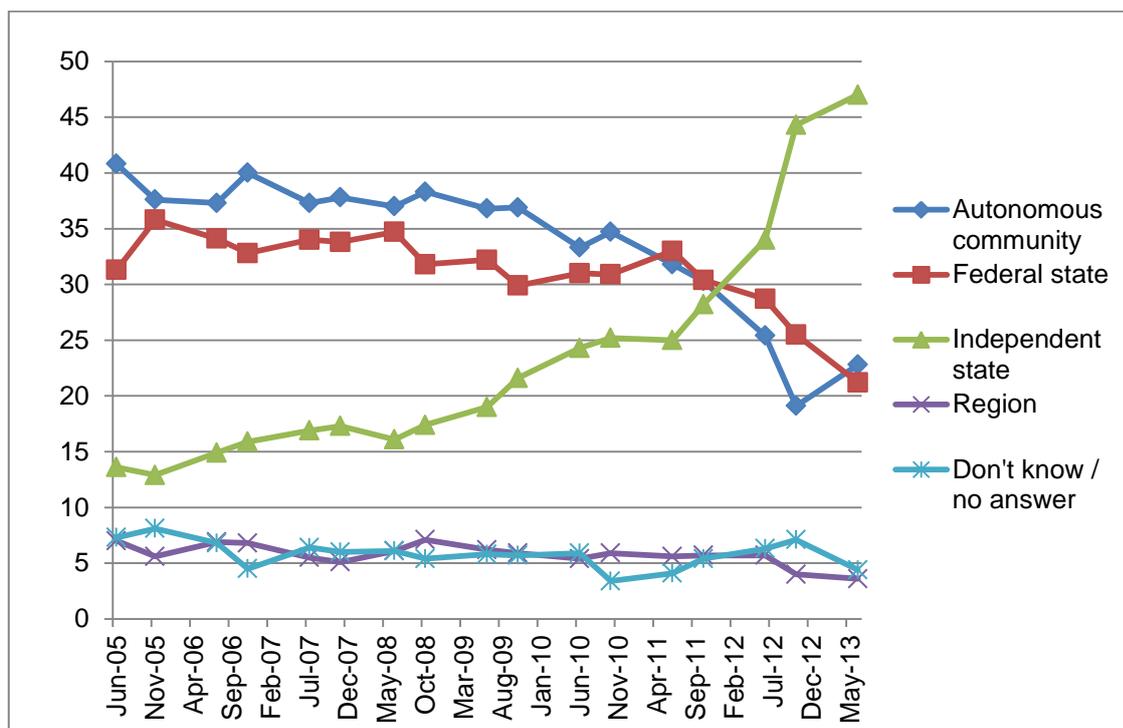
Minority national demands by more moderate forces also have been met with authoritarian response by government and state. For example, a planned referendum over making the Basque AC a "community freely associated with the Spanish state" was successfully challenged by the Zapatero government in the Constitutional Court - Spain's highest legal body- in 2008³⁵ (Pastor, 2012: 127 & 128). In the case of Catalan demands, it looked at first as if central government's reaction was to be different. In 2003 a left-wing Tripartite alliance led by Socialist (PSC) Pasqual Maragall took over the Generalitat, announcing it would substantially reform the Catalan Statute of Autonomy³⁶. The new Spanish Socialist government the following March endorsed this reform (in ACs that wished for this), promising a "second transition" to transform the state's territorial architecture (Balfour & Quiroga, 2007: 120).

Yet the outcome of the Catalan reform was far from harmonious. The new Statute passed by the Catalan parliament in 2005 –and later ratified in referendum- included measures to compensate for previous fiscal transfers and the future handover of no more than 50 per cent of revenue from shared taxes, as well as powers to manage immigration (ibid: 12; 5.3.1). It immediately encountered a boycott of Catalan products in Madrid backed by a considerable proportion of the local population (Carmona, García & Sánchez, 2012: 106). The Statute was then truncated first by the Spanish government and then Congress (Pastor, 2012: 159). The conservative opposition felt the modified text still included too many concessions to the Generalitat and made a challenge to the Constitutional Court. In 2010 the Court ruled that fourteen articles were unconstitutional and others required a restrictive interpretation; and it denied any juridical effect of identifying Catalonia as "a nation" (Carmona, García & Sánchez, 2012: 105).

The evolution of the process was met by angry disappointment among many Catalans. In 2010 a million and a half demonstrated under the slogan "We are a nation. We

decide” (ibid). Zapatero spoke of having reached the “end of political decentralisation” and many Catalans coincided, embracing independence as an alternative. Figure 4.1 shows that the proportion of people in the AC preferring this option over other territorial arrangements doubled during the reform attempt to over one in four, while those whose preferred model was autonomy fell by approximately a quarter. Between 2009 and 2011 municipal referendums on independence were held in many localities. In 2011 support for independence rose further (Figure 4.1). This was likely encouraged by the political and institutional crisis that developed in response to the M-15 square occupations, which Spanish intellectuals have termed the “regime crisis” (Cano et al., 2014; Iglesias, 2015); and the growing popularity of the “economic case for independence” among people previously unmotivated by the idea of Catalan statehood³⁷.

Figure 4.1: Catalans’ relative preference for different territorial models
(% of total options)



Source: Barometers of the Centre d’Estudis d’Opinió (Catalan government’s polling centre; Bel, 2013: 59)

There also were indications that in the future a more centralised Spain was a possible outcome. In November 2010 the Spanish Supreme Court questioned the use of Catalan in the school system (Pastor, 2012: 163); and in conservative circles there was increasing talk

of the need to save public spending by reducing the territorial levels of public administration³⁸. Because “the political project of Catalanism” had centred on the “extension and deepening of autonomous power” and the devolution process had reached a “dead end” even pragmatic and conservative pro-Catalan parties such as CiU have become alienated with central government and its decisions (Dowling, 2005: 111).

4.2 Pronounced business cycles, flexibility and migrants

The macroeconomic and labour context in which the “new immigration” has taken place has been of relatively pronounced economic cycles, widespread insecurity in labour markets - precarious and underground, and low competitiveness. Before 1974 the Spanish economy had undergone two decades of industrialisation and growth (and urbanisation of society)³⁹. Since, the Spanish economy has suffered three recessions (1974-1985, 1993-1995, and the post-2007 slump⁴⁰); as well as growing at annual rates of between 2.9 and 5.3 per cent between 1995 and 2007 (Köhler, 1995: 75; Molinero & Ysàs, 2001: 305 & 306; Marín, 2001: 438-441; Expansión, 2015). The attempt to overcome these difficulties has included the related strategies of European integration, labour reform and an economic “model” articulated to an increasing degree around construction and tourism (López & Rodríguez, 2011; Marín, 2001: 439).

The European strategy meant that before and after joining the EC the González government chose to privatise state “monopolies”, accelerate an existing process of “industrial restructuring” (including eliminating industrial subsidies), introduce VAT, and in the 1990s reduce much of the social protections the PSOE had expanded earlier (Marín, 2001: 366-368, 439). Economic interconnectedness grew between Spain and the EC. European imports grew from a third to two thirds of total Spanish imports between 1984 and 1992; while Spanish exports to the EC increased from just over half to nearly three quarters in approximately the same period⁴¹ (ibid: 368). In order to qualify for incorporation in the new common currency - complying with the criteria agreed by EC member states in Maastricht in 1992- the PSOE government (and PP administration from 1996) agreed to control inflation, the public deficit and debt, and adopt a stable exchange rate through the European Monetary System (EMS, ibid: 438). Financial speculation on EMS currencies, added to problems of foreign capital flight and growing commercial deficit, led to a recession in 1993 (ibid: 369 & 438). From this period there has been low social spending in Spain compared to other European countries⁴².

4.2.1 Structural precariousness and migrant labour

Major “labour reforms” were passed by the González government in 1984 and 1993 that greatly increased insecure “temporary” hiring – affecting over *a third* of all jobs by 2006 and

becoming “a fundamental structural factor in the Spanish labour market”⁴³ (Pajares, 2010: 71; Martínez-Veiga, 2004: 52 & 53; Marín, 2001: 441). The new “secondary” labour sector was characterised by “low skills, low wages and few chances of promotion” (Martínez-Veiga, 2004: 50), as well as being associated with piecework, arbitrary discipline and low levels of unionisation (ibid: 34-39). Naturally this increased the relative strength of employers in the sector: enabling them to increase the rate of extraction of surplus value. The existence of a “dual” labour market can also be employed to undermine working conditions in the better protected segment (ibid: 59). Real wages in Spain have stagnated in recent decades –even during the period of economic expansion before 2007 –and it has been argued that the largescale flexibilisation of labour in Spain has been a major factor in this (Taifa, 2006). Flexibilisation has also contributed to maintaining a model of economic activity based on low capital investment and productivity.

Despite labour reforms in 2001, 2006 and 2010 ostensibly being introduced to end what became widely acknowledged as a socially restricting employment relation, precariousness has persisted at high levels⁴⁴. In Catalonia insecurity has been lower than the Spanish average and decreased substantially during the 1990s: from 20-27 per cent of total job contracts in the territory in the 1985-1993 period, to around 15 per cent in 1995-2003 (Colectivo Ioé, 2008: 93).

The relation between migrant and precarious labour

When sizeable immigration began in the late 1990s (see 4.3.1) it became an ingredient in the strategy to extend insecure employment. Within a few years 65 per cent of non-EU migrant workers were employed precariously (Martínez-Veiga, 2004: 53)⁴⁵. Migrants were often employed in what Piore described as “lower social status” employment” with “hard and unpleasant conditions” – including frequent rotation- and little chance of professional promotion, which the “native workforce rejects” (ibid: 42 & 43). Martínez-Veiga maintains that rather than being a separate market, precariousness “is constituted de facto as a unitary labour market” – as illustrated by the growth of temporary hiring in public-sector professions (ibid: 54 & 57). In Catalonia overlap between migrant and precarious hiring can be detected. For instance, in 2008 migrant workers in the territory averaged 27 months in jobs - as opposed to 113 months for non-migrants⁴⁶ (Colectivo Ioé, 2008: 95). Employment sectors with a large proportion of long-term precarious hiring in the territory tend to also hire many

migrants (ibid: 95). Immigrants are three times more likely to work in more than one job than “autochthonous” workers (ibid: 96)

At the same time, some observers – including scholars sympathetic to the plight of migrants- tend to commensurate migrant labour with precarious labour (Romero, 2010; Martínez-Veiga, 2004: chapter 1). A national report by the CC.OO. union federation, subtitled “Proposals for the Regulation of Migration Flows”, implied that migration is the key source of precarious labour in Spain,

having an important reserve army ‘flexibilises’ the job market, thanks to immigrant working people’s reduced costs –[social security] contributions and wages, greater availability and less-demanding attitude towards legal compliance. (Comisiones Obreras, 2008: 174)

These ideas overlap with some approaches to immigration by Spanish scholars. One equates migrant labour with the Marxian labour category of the “reserve army”, which acts “to suppress wage demands and discipline the working classes” and even replace “native” labour (Recío, 2008: 49; see 3.1.3 on Marx’s concept). The controversial Viejo Top analysis mentioned in 1.2.2 argued that immigration imported the wages of the poorest countries and had been responsible for the stagnation in average Spanish wages since 1997⁴⁷ (Verstryngge, Sánchez-Medero & Sánchez-Medero, 2007: 18).

The cited accounts misrepresent the development of Spanish labour markets and migrant labour’s role in them. Fixed-term hiring – often taking the form of repeated contracting of the same employee- was a major feature of Spanish employment before the largescale incorporation of migrants into the workforce, and has involved much larger numbers of non-migrant young people than migrants⁴⁸ (Martínez-Veiga, 2004: 51). In the first quarter of 2007 according to official figures nearly 32 per cent of all workers were precarious –a far higher percentage than the proportion of foreign workers (UGT, 2015: 4. Unofficial studies have calculated a much higher figure; Taifa, 2006: 27). Furthermore, according to Pajares, by the end of 2008 more foreign workers were employed on permanent contracts than fixed-term (2010: 72). The overall evidence suggests that migrant labour should be treated as a separate category to precarious labour – even if there is considerable overlap between the two groups.

4.2.2 Underground hiring

A third and less-discussed labour market is that of the underground economy. An Inland Revenue study presented in 2014 found that the underground economy made up a quarter of Spanish GDP (€253bn); although at the beginning of the crisis the figure was 18 per cent (€193bn)⁴⁹. World Bank estimates informality as representing 22 per cent of Spanish GDP between 1996 and 2007⁵⁰. The “black economy”, which includes illegal transactions by firms that act legally at other times, is therefore a considerable stable economic feature. At the same time, it has expanded and contracted according to the economic cycle, and the sharpness of turns in employment may have been accentuated by companies and self-employed persons deciding to take operations “off the books” (see 4.2.3). It is an employment sector that can absorb irregular migrant workers as easily as non-migrant labour. This has led some scholars to affirm that the size of the underground economy in southern Europe is the central “pull” factor in migration flows (Baldwin-Edwards, 1998: 3).

Research by Cornelius published in 2004 identified limited enforcement of penalties against illegal hiring and social-security infractions. He associated this passivity with the economic importance and cultural entrenchment of the underground economy. For a Spanish scholar he interviewed,

a large proportion of illegal immigrants as well as native-born workers are employed in the underground economy. If it were seriously disrupted, much of the local population could be left without work. (2004: 409).

Informal hiring has “a long tradition” in Spain (Recío, 2008: 61) and Cornelius identified this as taking place under the González and Aznar administrations due to a “well-entrenched” institutional culture of respecting employer autonomy (2004: 409). At the same time, governments have shown they partake in the tradition described: as demonstrated most dramatically in the “Bárceñas case” being processed in the courts at the time of writing. In this case there has emerged considerable evidence from the ex-treasurer of the PP that President Aznar, his successor as PP leader Mariano Rajoy, and other party employees received illegal bonuses from a slush fund together with party wages⁵¹ (Pérez, 2013). For the Colectivo Ioé, underground employment is a sub-category of the precarious labour market, but it is one that because of its illegal nature arguably has more in common with irregular immigration and the criminal activities that help it prosper (2008: 93).

4.2.3 Migrants in “boom” and “bust”

Immigration arrived on a largescale in Spain in the midst of economic expansion (1995-2007). Relatively high growth rates and a big fall in unemployment – officially from 22 per cent in 1996 to 7 per cent- meant that the country accounted for a large part of domestic demand and new employment in the Eurozone in the 2000-2005 period (Prieto del Campo, 2005: 56; Garcés-Mascareñas, 2012: 113). This led to talk of being a “miracle” economy and Aznar adopting the political slogan “España va bien” (“Spain is doing fine”⁵²). Yet growth was shown to have been built on weak foundations. The high value of the Euro adopted in January 1999 and the fiscal and other reforms performed that made Spain eligible to join the Eurozone helped make exports less competitive than imports from core EU states and elsewhere –an imbalance eventually expressed in a high current account deficit (reaching 10 per cent, Montes, 2009; Lapavitsas et al., 2012: 22-33; 4.2). European-inspired modernisation also encouraged a narrowing of economic activity (4.2; López & Rodríguez, 2011; Marín, 2001).

A construction bubble was allowed to inflate - encouraged by cheap lending to home purchasers and new laws reducing planning restrictions (López & Rodríguez, 2011; Colau & Alemany, 2004). Purchasers included large numbers of wealthier Europeans buying holiday homes – adding significantly to foreign residence. Rapid house-price rises – of 12 per cent annually between 1997 and 2007 – meant Spaniards wished to buy a first or second property (Hugh, 2009). Banks gave a million new mortgages to the poorest sections of society between 2003 and 2007 – including very many non-EU migrants (López & Rodríguez, 2011). “The wealth effect of steadily rising property prices” fuelled “voracious consumption” and the “economy overheated way beyond capacity” (Hugh, 2009). Rising property prices also encouraged “frenzied urban-development speculation” – in the words of a UN envoy. By 2006 there were more housing start-ups in Spain (900,000) than in Germany, France and Italy together, and one in five new Spanish jobs were in the housing sector (López & Rodríguez, 2011). Encouraged by stagnated wages, families borrowed heavily during this period.

The combination of the excesses described and the international banking crisis and recession were followed by the collapse of the construction sector, real estate firms and regional savings banks. Asset prices acted on the economy in “reverse, generating a severe poverty effect” (ibid). In two years unemployment rose to 17 per cent⁵³ (reaching 26 per cent in 2012). A million homes remained unsold and in 2008 and 2009 a million construction

workers lost their jobs (López & Rodríguez, 2011; Pajares, 2010: 33). Very many of these were migrants, as the unemployment rate for migrant building workers became double that of the rest of workers in the sector (Pajares, 2010: 48). The negative social impact of the crisis was huge for almost everybody but particularly for migrants. Job losses among migrants in the service sector increased by over 200,000 in two years; and a quarter of all Ecuadorians lost their jobs in one year (Pajares, 2010: 50 & 156). By the end of 2009 almost a third of migrants were unemployed and by the first quarter of 2012 this had risen to 37 per cent (Carrasco-Carpio & García-Serrano, 2011; López-Sala & Ferrero-Turrión, 2009; Burchianti & Zapata-Barrero, 2012: 6). The activity rate of migrants fell from 68 per cent to 54 per cent between 2006 and 2009 (Burchianti & Zapata-Barrero, 2012: 6). At the time it compared to a reduction in little over one in five for non-migrants. This was the specific context in which the PSOE government adopted less favourable policies towards migrants – including “return policies” (see 5.2.2.1). At the same time, according to Pajares, the loss of jobs in the precarious employment sector was far bigger among non-migrants⁵⁴ (2010: 72).

A wave of home evictions – part encouraged by the desire for banks to recover their losses – affected a great many migrants as well as non-migrants. Between 2007 and 2011 a total of 349,438 were carried out according to the Spanish judiciary (CGPJ); 65,670 evictions in Catalonia (Colau & Alemany, 2014: 206). A survey of victims performed by the large PAH housing movement found that 35 per cent were foreign nationals – of which many had lost their jobs in the recession (ibid: 212 & 214). Between 2010 and 2011 the central and Catalan government brought in strict austerity measures (including reducing public-sector employment and wages, as well as greatly reducing welfare-state provision).

4.3 New immigration in Spain and Catalonia

Spanish and Catalan migratory patterns changed greatly in the latter half of the Twentieth Century. Spain was a country of political and economic *emigration* from 1910 to 1970⁵⁵ (Rius-Sant, 2007: 18). Partly in response to uneven processes of industrialisation from the 1950s to the mid-1970s largescale “internal” migration took place from poorer Spanish regions to cities such as Madrid, Bilbao, and Barcelona. A total of 1.4 million Andalusians, Murcians and Galicians emigrated to Catalonia (Arrighi de Casanova, 2014: 111), and by 1970 those born outside Catalonia made up 38 per cent of the local population (McRoberts, 2001: 129 & 130). In Catalonia and the Basque Country newcomers were described as “immigrants” – a

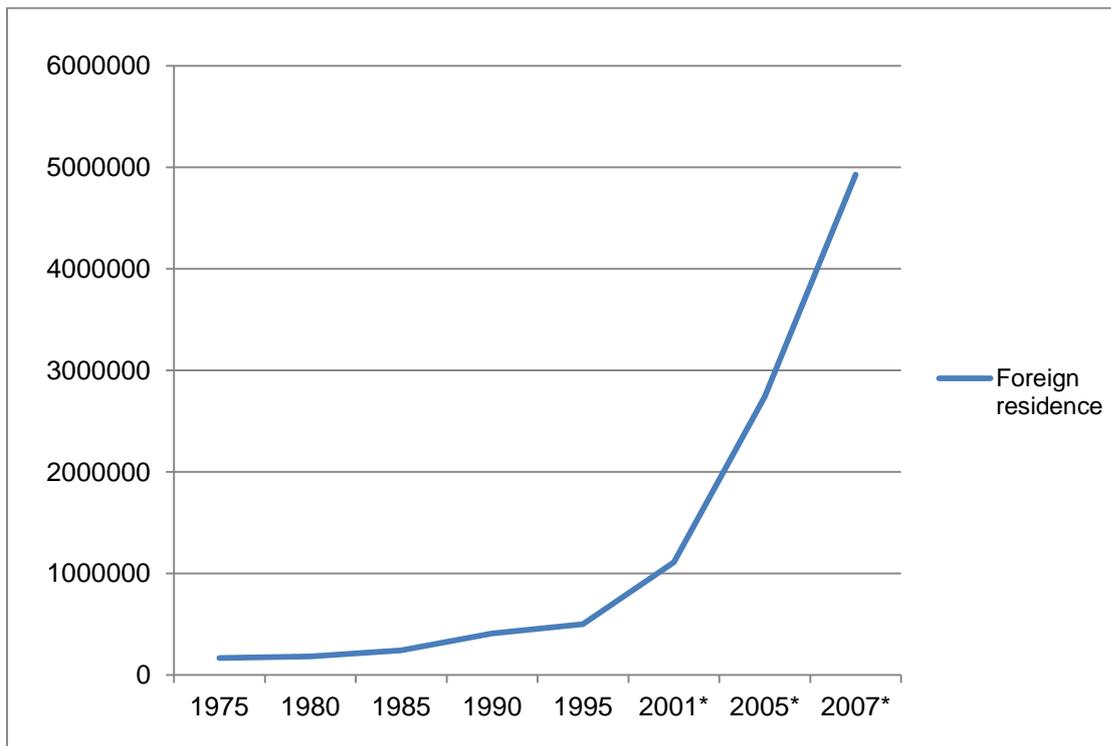
terminology that was used until the 1990s when its meaning was transferred to refer to non-European newcomers.

At the time of the interviews for this research around one in five Catalan residents had been born in other Spanish ACs, and over one in six, born abroad (Arrighi-de-Casanova, 2014: 111). Foreign settlement began mainly in the 1960s and has included people from the richer western Europe – many of whom retired and/or resident for part of the year in tourist destinations (Arroyo-Pérez et al., 2012: 56; Parella, 2006: 135). Members of this group are rarely treated as “immigrants” in political and popular discourse in Spain, although figures given in media and scholarly reports on the immigration phenomenon tend to treat as the same those of all “foreigners” with “immigrants” – a more objective approach. The result is to give inflated ideas as to the size and intensity of cultural and “ethnic” transformations in Spain. Exclusion of many Europeans from the “immigrant” category sometimes is justified in terms of their “EU citizenship”, but people from eastern EU states are frequently termed “inmigrantes”⁵⁶ – an inclusion that suggests the term “immigrant” is associated with those of lower socio-economic conditions and status. Likewise, immigration often has been approached as reduced to labour migration.

4.3.1 Patterns of the new immigration in Spain

The “new immigration” from poorer countries began in the 1970s –including Moroccan migrants that settled in Catalonia after being blocked from emigrating to France (Rius-Sant, 2011: 11-13). It became a major demographic feature in Spain in the second half of the 1990s –raising steeply the total foreign-resident population (including those from richer European countries). This can be seen from Figure 4.2, which charts the long-term evolution of Interior Ministry statistics.

Figure 4.2: Long-term evolution of legal foreign residence in Spain 1975-2007

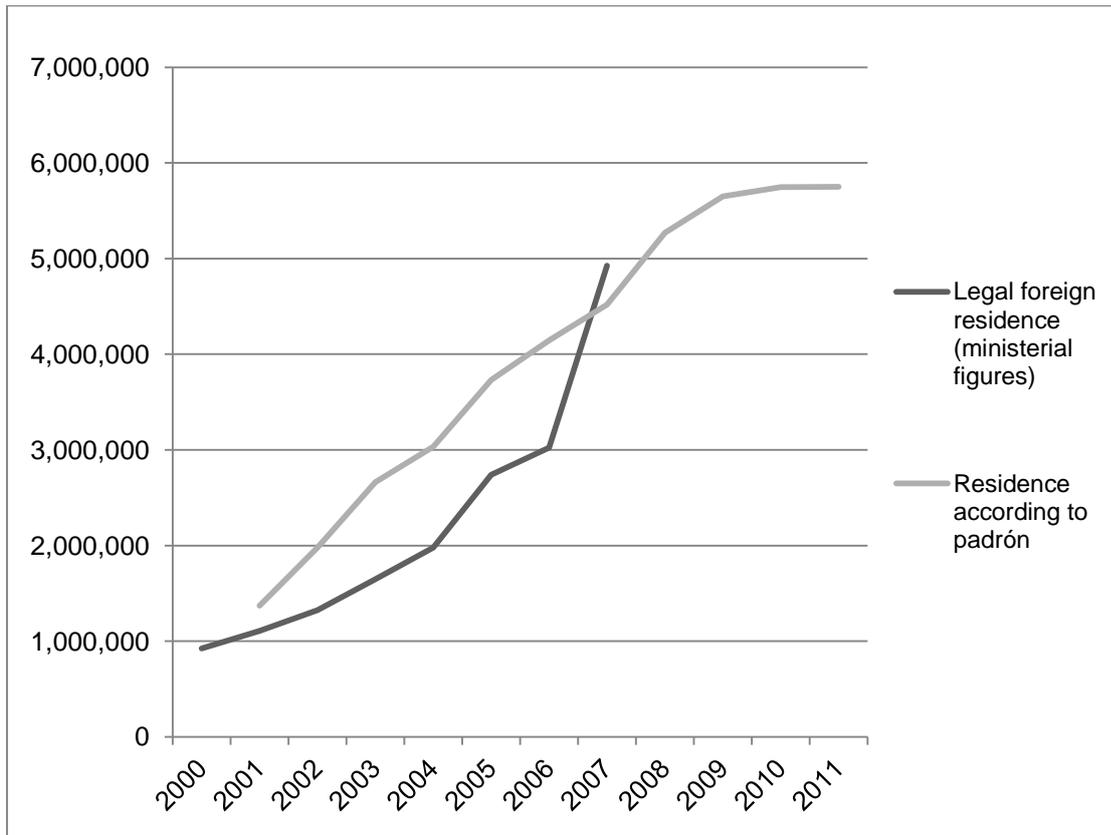


Source: Garcés-Mascareñas, 2012: 113 & 114.

*Note that the intervals vary from 2001.

The figures show the size of immigration as presented and discussed publicly and give a broad idea of long-term developments. However, they only include regular migrants. Municipal register (“padrón”) statistics include very many irregular migrants and are a more accurate (if imperfect) measure of migrant residence. Figure 4.3 illustrates their evolution (expressed in the fainter line of the two) in the more recent 2001-2011 period: in which total foreign residence rose from 1,4 million to 5,3 million by 2008 – the first crisis year. Official residence reached 5.8 million in 2011 but the rate of immigration slowed – almost halting, likely demonstrating the impact of the crisis. The figures confirm the relationship between settlement levels and economic development.

Figure 4.3: Number of regular & registered foreign residents 2000-2011



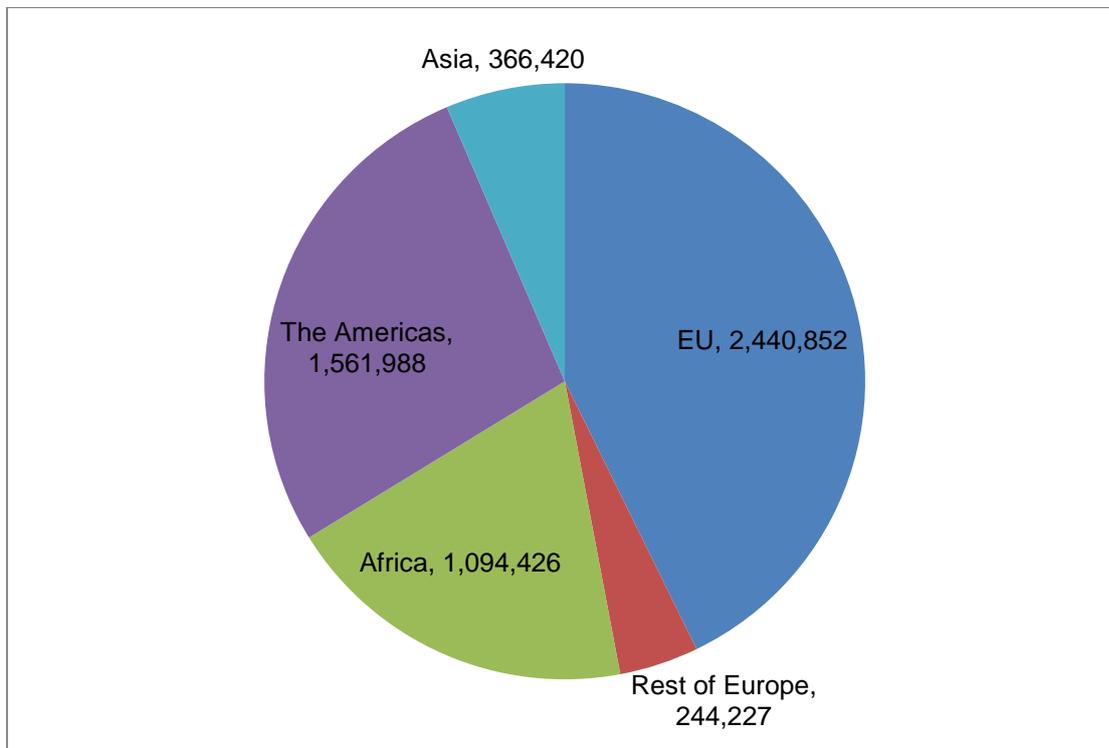
Source: Arroyo-Pérez et al., 2012: 77; Garcés-Mascreñas, 2012: 113 & 114.

The graph also compares the municipal-register data with that of the Interior Ministry (shown by the darker line). There are two related observations that can be made here. Firstly, the rise before the crisis –at least from 2000 onwards- was likely to have been even, rather than the upward curve suggested by government figures. Second, the evolution of the gap between the two curves provides an approximate idea of the size and trajectory of irregular residence. Concretely it is shown that unauthorised residence grew during the second People’s Party administration (2000-2004) –reaching just above a million persons in 2003. It stayed around the same figure after the PSOE took office and initiated the much-debated 2005 regularisation process (5.2.2.1). The sharp rise in the number of legal residents in 2007 coincides with the incorporation of Romania and Bulgaria in the EU (Cea D’Ancona, 2010: 56; Figure 4.6). The fact that the Interior figure for 2007 is higher than the “padrón” figure is examined in relation to the interview findings in 7.1.3.1, but in the meantime requires treating both the padrón figures and comparisons as approximate rather than exact.

4.3.1.1 Origins of foreign residents in Spain

The growth in immigration since the 1990s is largely accountable by the increase in residents born in poorer countries –leading scholars to identify a process of “Third-Worldisation” (“tercermundialización”) of immigration (Calavita, 2005: 27; Garcés-Masareñas, 2012: 112; Cornelius, 2004: 388). Such immigration was relatively pronounced in Spain, which by the mid 2000s had the largest share of net non-EU immigration in the Union (Eurostat figures in Consejo Económico y Social, 2004: 16). Foreign residents have a mix of regional origins. Based on figures from the INE and municipal records, the numbers and relative proportions of different groups in December 2011 are illustrated in Figure 4.4. Easily the largest group are Europeans (a total of 47 per cent for both EU and non-EU), followed by “Americans” (mainly South Americans and substantial numbers from Central America and the Caribbean) – 27 per cent of the total foreign population. The proportions of Africans and Asians are 19 per cent and 7 per cent respectively.

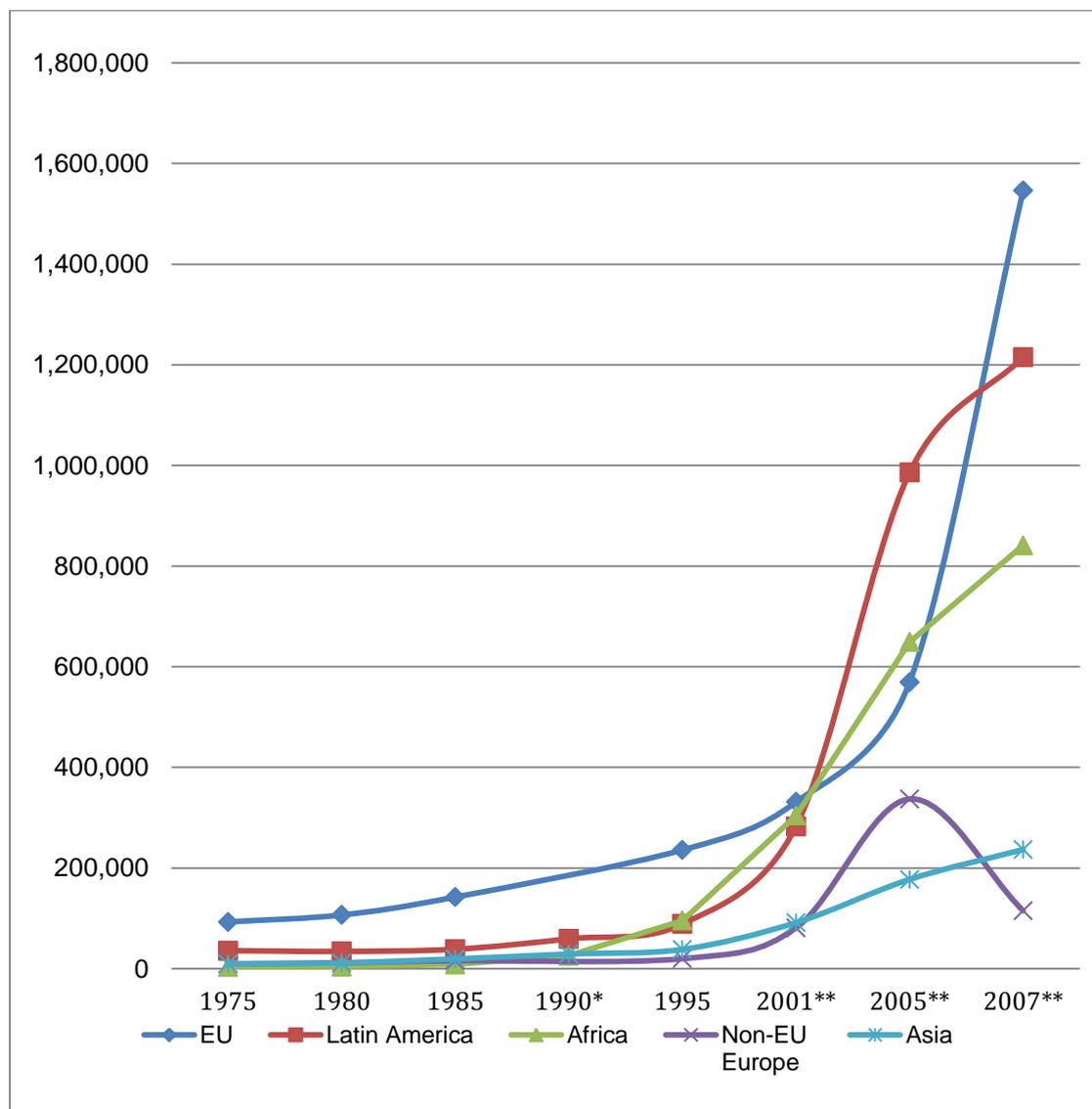
Figure 4.4: Regional origin of foreign population in Spain 2012



Source: municipal record, INE in Arroyo-Pérez et al., 2012: 28.

Identifying the evolution of immigrant origins over time is useful in that it provides indications of the effect of policies –as is introduced in Chapter Three. Figure 4.5 shows the variation in *legal* residence of migrants from the geographical areas used in Figure 4.4. EU migration grew steadily and slowly until the mid-2000s when it accelerated rapidly. Latin American and African residence both grew greatly after the mid 1990s, but the increase in the former was almost twice as pronounced from 2001 to 2005.

Figure 4.5: Evolution of foreign residence in Spain by regional origin 1975-2007



Source: Interior Ministry figures in Garcés-Mascareñas, 2012: 113 & 114.

* Both groups of Europeans were not included in 1990 due to changes in the measuring system.

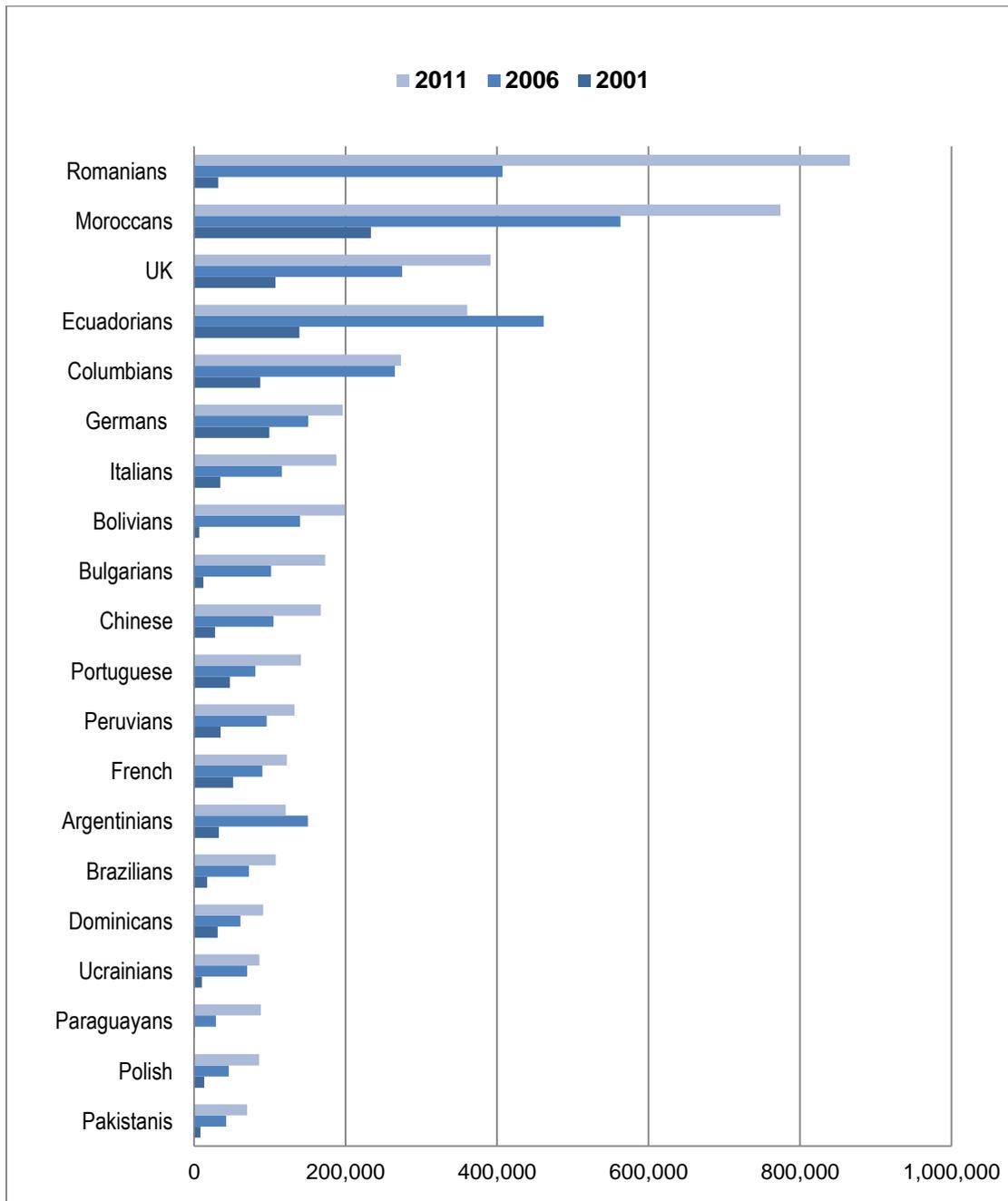
**From 2001 the EU includes countries from the European Economic Area (EEA). (Note: the intervals change also).

It can be assumed that if the figures included unauthorised migrants, there would be a smaller proportion of Europeans and the other groups would be more numerous. However, the importance and rapid expansion of European immigration can be partly attributed to the expansion of the EU eastwards – as can the fall in non-EU European settlement after 2005). This can be seen from looking at the changes to the *national* origins of migrants. According to “padrón” data, Romanians formed the biggest group of foreign residents in 2011 (865,707 inhabitants), despite being a very small group at the beginning of the 2000s – see Figure 4.6. It is clear from the residence figures that a very large number were already living in Spain before Romania’s accession to the EU in 2007. The Bulgarian and Polish populations have also grown. The other steady and increasing source of EU settlement is by the nationalities normally invisible in debates on immigration: the British, Germans, Italians, Portuguese and French – all of whose arrival has hardly slowed down during the crisis years.

Moroccan settlement has continued –making this the second largest foreign nationality in the country (773,995). And there are six South American nationalities of over 100,000 inhabitants. All of these grew considerably before 2006 but have mostly stopped growing since. The Ecuadorian and Argentinean collectives have shrunk during the crisis period and this may be because both groups came to Spain after major crises in their own countries⁵⁷.

Some of the Eastern European migration is by persons of Roma origin, and such a group joins an already considerable Roma population of Spanish citizens. Roma persons as a whole make up 1.6 per cent of the Spanish population according to the European Commission (López, 2011). There is also a substantial Muslim population – of roughly a million and a half residents according to an estimate using “padrón” data (Cembrero & Álvarez, 2010). Half are of these are Moroccans and a third, Spanish citizens (ibid). Catalonia has significantly more Muslim residents – totalling roughly a third of a million – than any other AC (ibid). Both the Muslim and Roma populations have suffered, and continue to suffer, considerable prejudice and discrimination.

Figure 4.6: Evolution of foreign residence in Spain by nationality (20 largest)



Source: municipal-record & INE data in Arroyo-Pérez et al., 2012: 85.

4.3.1.2 Migrants in the workforce

Several ways by which migrants have played a crucial role in the Spanish labour market have already been cited in this thesis: resolving demographic deficits (1.2), providing new sources of precarious and underground labour (4.2.1), and filling major gaps in the job market –such as during the construction boom (4.2.3). In this sub-section statistical data is employed to show more precisely how this has developed in practice. It is necessary to add first, however, that there are two other ways in which migrants have fitted into Spain's varied employment fabric. In the first place, it has been acknowledged that migrants are more likely to accept deskilling for different reasons (including legal, institutional and discriminatory impediments to them working in their previous professions).

Secondly, partly because migrants often arrive as individual adult women and men without families and are (initially) less rooted, they logically have greater flexibility regarding work shifts and hours, and the location in which they work and live. Consequently, in 2009 foreign residents were three times more likely to change municipality of residence than Spaniards. (Pajares, 2010: 103 & 158). Employment sectors that benefit from this mobility include agriculture, agroindustry, and hospitality (including in tourist centres away from residential areas). Domestic employment has been transformed in the period of new immigration from a sector in which (in 1985) only 7 per cent of domestics lived in (when the service was mainly provided by “native” women from the countryside), to a mainly migrant employment sector including very many “live-in” domestic workers (84 per cent of the many Dominican women working in domestic service according to a 1994 study; Martínez-Veiga, 2004: 146). This transformation has been encouraged by the incorporation of large numbers of Spanish women into employment creating a new market in “middle-earning” households. In such a market the low wages offered can be partially compensated by providing free accommodation, which some migrant women that are newly arrived (or hired at source) have been willing to accept⁵⁸ (see 6.2 for more discussion).

Table 4.1 shows the INE figures for migrant and non-migrant employment in 2010⁵⁹. It includes the proportions of both migrants – including EU residents- and non-migrants working in different employment sectors. By comparing the percentages of migrants and “native” workers, it can be seen in which sectors migrant labour is being hired or not. The most important observation is that nearly 400,000 migrants – 36 per cent of all migrant workers – are in “unskilled employment” (Pajares, 2010: 90). At the other end of the employment spectrum they are much less likely to be in public-administrative (half), technical

or professional posts (a third or less). They are half as likely to be managers, and it can be assumed that this proportion would be considerably lower if those running small businesses were not included in this category. The figure of 51,900 migrants in agriculture and fishing is very low and raises the question of the extent of the irregular labour in agriculture revealed after the El Ejido violence (1.2.1).

Separate statistics showing employment only of *non-EU* migrants show that women in this group are even more concentrated in “unskilled work” (52 per cent of the total: Pajares, 2007: 64) and catering, domestic, social-services and retail services (30 per cent, *ibid*). Non-EU males were employed in a greater variety of occupations: 36 per cent in skilled work in industry, construction and mining or craftwork; 31 per cent in unskilled work; 12 per cent in the above mentioned services; and 10 per cent as machine operators, fitters and assemblers (*ibid*).

Table 4.1 Sectors of employment of migrants and non-migrants 2010

| | Foreign working population | | Spanish working population | |
|---|----------------------------|-----|----------------------------|-----|
| | Total no. | % | Total no. | % |
| Total | 2,547,200 | 100 | 16,098,700 | 100 |
| Private & public sector management | 111,800 | 4 | 1,381,800 | 9 |
| Scientific & intellectual technicians & professionals | 130,600 | 5 | 2,479,700 | 15 |
| Support technicians & professionals | 111,900 | 4 | 2,184,200 | 14 |
| Administrative staff | 115,200 | 5 | 1,632,100 | 10 |
| Catering, domestic/personal, social-protection & retail-service workers | 540,200 | 21 | 2,652,700 | 17 |
| Skilled workers in agriculture & fishing | 51,900 | 2 | 420,500 | 3 |
| Skilled workers in industry, construction & mining; craftspeople | 397,100 | 16 | 2,100,700 | 13 |
| Systems & machinery operators; fitters & assemblers | 167,200 | 7 | 1,387,300 | 9 |
| Unskilled workers | 914,600 | 36 | 1,764,600 | 11 |

Source: Pajares, 2010: 90

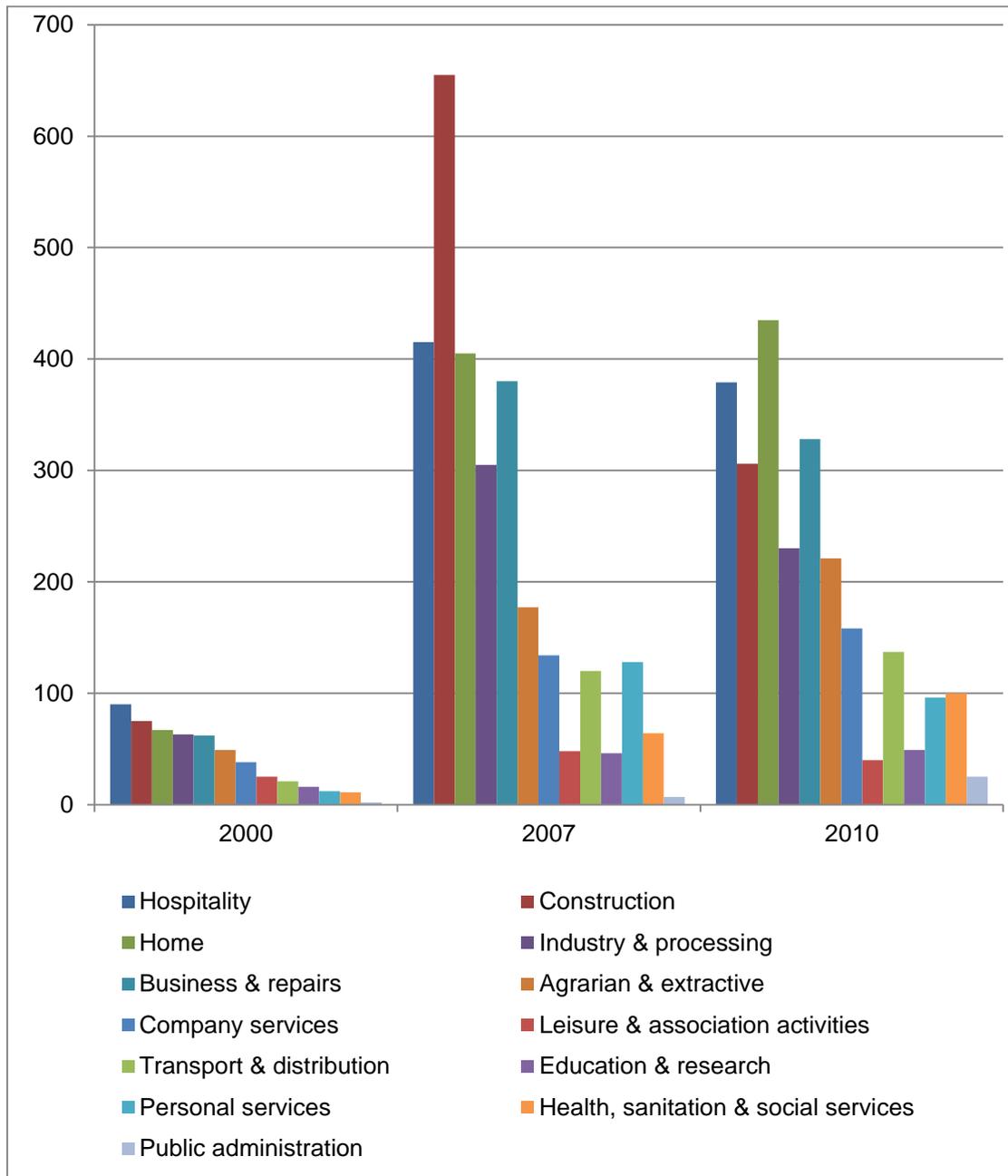
A lot of deskilling of migrant labour takes place. Figures comparing educational levels between Spaniards and foreign residents vary (Pajares, 2007: 54; Consejo Económico y Social, 2004: 28-30). However, they point to Non-European migrants having broadly similar education levels to Spaniards (ibid). Yet migrants disproportionately perform unskilled and low-skilled work. Deskilling is promoted by legal and institutional impediments – for instance not recognising migrants' qualifications – but also takes place due to ignorance. Research on African employment in the Girona area found that migrants were sometimes assumed to be suited to unskilled agricultural work even when having high education levels (as

happened with Moroccan migrants – despite 80 per cent having secondary-level schooling; Mendoza, 2003: 162, 227).

Figure 4.7 uses micro-data from the Active Population Survey (EPA, a large-sample INE household survey⁶⁰) to demonstrate how migrant employment has evolved by sector, using the figures for 2000 (when migration was arriving), 2007 (before the crisis started having an effect), and 2010 (close to the date of interviews performed). Several sectors saw a large jump in migrant employment: construction (reaching a total 655,000 foreigners in 2007), hospitality (totalling 415,000 the same year), domestic service (405,000), business and repairs (380,000), and industry and processing (305,000). In 2000, each of these sectors employed as little as 60,000-90,000 migrants. Migrant employment fell significantly in the sectors mentioned after the crisis, but greatly so in construction –in which the amount of employment more than halved (to 306,000). There were small increases in employment in the domestic, agricultural, company services, transportation and health/social provision sectors, which – with the exception of health- were not matched by increases in “native jobs” in these sectors (Carrasco-Carpio & García-Serrano, 2011: 115).

The decreases in occupational numbers are similar to those of non-migrant workers in the same years (2007 & 2010; Carrasco-Carpio & García-Serrano, 2011: 115) with the exception of native jobs in construction – that fell by a smaller *third*. Sometimes migrant employment has followed “niche” patterns (for example Africans working in agriculture, Filipino and Dominican women working in domestic service, Garcés-Mascareñas, 2012: 112-3).

Figure 4.7: Evolution of foreign employment by sector (1000s of workers)



Source: Carrasco-Carpio & García-Serrano, 2011: 115.

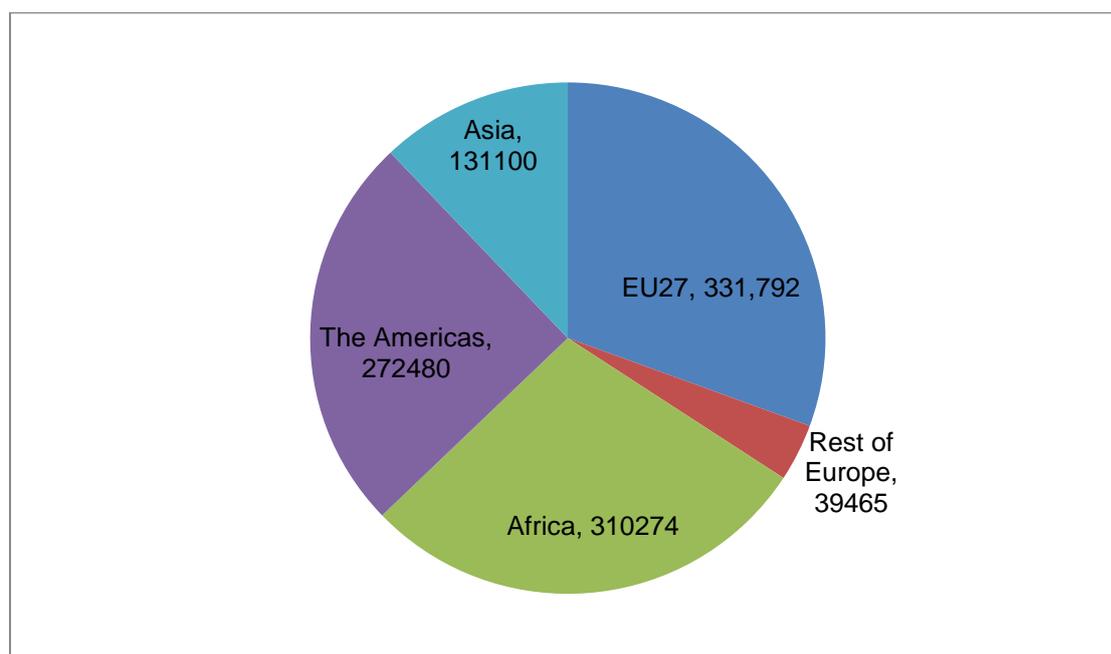
4.3.2 New immigration patterns in Catalonia

The immigration from outside Spain that began in the 1990s is treated by the Catalan institutions as fully accounting for one of Catalonia's biggest demographic expansions for a century (Secretaria per a la Immigració, 2010: 2; Statistical Institute of Catalonia, 2008: 2 &

3). The foreign population grew substantially each year from the late 1990s to the time of the crisis. Between 1999 and 2002 inter-annual growth was over 20 per cent – peaking at 49 per cent from 2000 to 2001⁶¹ (Secretari per a la immigració, 2010). Since then the rate of arrival has slowed: reaching 4 per cent in 2009 –suggesting the impact of the crisis on migration has been general (ibid). Migrant mothers account for a quarter of all births – partly due to having a significantly higher birth rate than non-migrant mothers (Statistical Institute of Catalonia, 2008: 10 & 11). A very high proportion of migrants in Catalonia are waged: according to one Catalan study 93 per cent – compared to 82 per cent of “autochthonous” people (Colectivo loé, 2008: 92). In the 1999-2007 period most of the new hiring of migrants was “blue collar” (nearly seven out of ten jobs, ibid).

According to Generalitat statistics – based on Spanish ministry and OPI, figures-presented in Figure 4.8, the order of regional origins of foreign residents in the AC are “Europe” (34 per cent), Africa (29 per cent), Latin America (nearly 25 per cent⁶²), and Asia (12 per cent)⁶³. The total numbers from each are included in the chart. Comparison with the Spanish distribution must be performed with caution – as it is not clear from sources that municipal record data was included⁶⁴ (4.3.1.1). However, some important relative appraisals can be made. The foreign population is broadly similar to that in Spain but it is more diverse – with larger percentages of Africans (29 per cent) and Asians (12 per cent)⁶⁵. Most notably there is a much lower proportion of Europeans (a little over a third) compared to in Spain as a whole (just under a half; 4.3.1.1). Because the Spanish figures include municipal data, if the Catalan statistics were not based on the same, then a *lower* proportion of EU residents should be expected. In consequence, we can assume a smaller weight of EU residence and a more diverse cultural makeup.

Figure 4.8: Regional origin of foreign population in Catalonia 2011

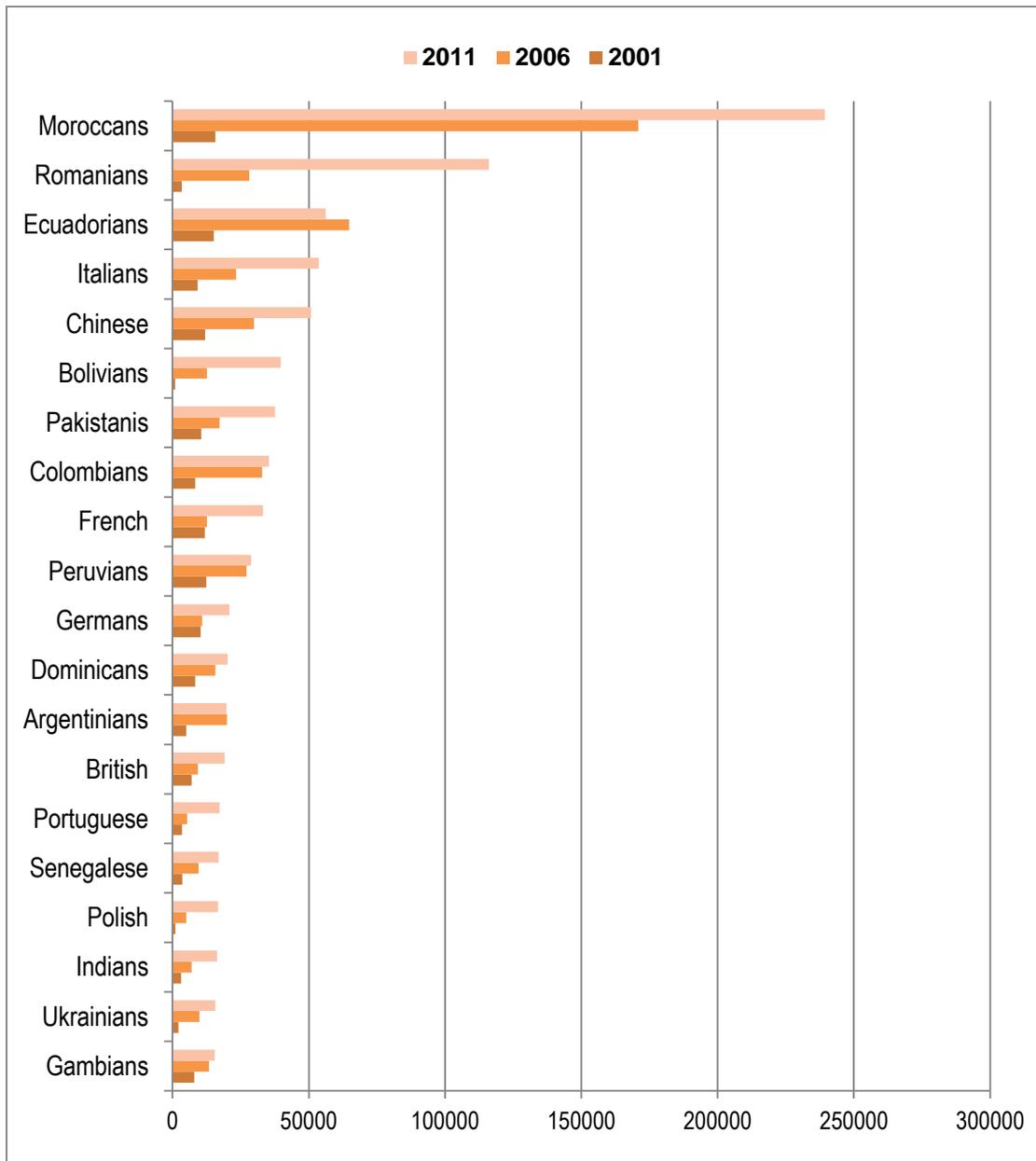


Source: Statistics Institute of Catalonia (Idescat, 2012).

Before the crisis, the proportion of immigrants from Latin America increased – from 20 to 36 per cent of total immigrants between 2000 and 2008; while that of Africans decreased – from 42 to 25 per cent in the same period⁶⁶ (National Institute of Statistics, 2008: 8). However, as in Spain, the Latin American community stopped growing with the crisis – as can be seen from observing the sizes of foreign nationalities resident in Catalonia in 2011 (as illustrated in Figure 4.9).

The figures on foreign residence by nationality and its evolution are (again) not clearly based on census figures requiring comparisons with the appropriate Spanish findings (in Figure 4.6) to be treated as approximate (even though both sets of data are those used by the official statistics bodies of each territory). However, it is possible to conclude that within similar patterns of immigration, in Catalonia there has been a greater predominance of Moroccan immigration (the largest national group in 2006 and 2011: 239,410 people in 2011) and smaller –albeit growing– Romanian population (116,141). Beyond that it has had a similar but more diverse settlement (including significant numbers for several Asian and sub-Saharan African nationalities). The figures for the main European nationalities suggest there are marginally more immigrants from the west than the east⁶⁷.

Figure 4.9: Evolution of foreign residence in Catalonia by nationality (largest 20)



Source: Idescat: 2001, 2006 & 2011⁶⁸.

Division of the same data according to different Catalan provinces confirms concentration of residence in and around Barcelona (two thirds of all migrant residents). There are (limited) indications that settlement is shaped by national and maybe kinship networks (for example the concentration of Latin Americans, Asians and Europeans in Barcelona province, or of

Russians and Gambians in Girona⁶⁹; Idescat, 2012). Foreign residence is not just important in the big cities and towns: approximately half of Africans and Europeans live in urban areas of less than 50,000 inhabitants (Statistics Institute of Catalonia, 2008: 16 & 17).

The foreign population tends to be of working age (peaking at between 25 to 29 years for most regional groups) and is very rarely elderly (with the partial exception of some EU nationals, Statistics Institute of Catalonia, 2008: 5-7). With the exception of Latin Americans, and “non-EU Europeans”, foreign residents are more likely to be male (averaging 121 men for every 100 migrant women, *ibid*). They are more than twice as likely to be “at risk of poverty” (*ibid*: 20).

4.4 Conclusion:

The main function of this chapter has been to provide necessary background to the findings presented in subsequent sections – particularly the following on immigration policymaking and policies. Therefore the relevance of some of the findings presented will only fully become apparent later. At the same time, some observations from the present chapter can be made at this stage. A first is that in the period subject to this study Spain was a politically stable democracy that had been incorporated successfully into the European Union, and had a stable (if relatively corporatist) political framework shaped primordially by the Socialist PSOE. An exception to its stability were the national disputes that continued after the end of Franco’s dictatorship (most dramatically in the form of persistent violence and repression in the Basque Country but also between Catalonia and Madrid). “Regional” decentralisation was meant to dilute the aspirations of the minority nations but Catalan nation-building continued to develop within such a framework thanks to linguistic, communication, educational and other policies – all aided by nationalist political hegemony in the territory. The growing desire for greater territorial redistribution of powers (including over immigration) was blocked in the 2000s.

Volatility in national matters has been matched by the increasing sharpness of Spain’s business cycles. The Socialist government’s response to a series of recessions between the 1970s and early 1990s was to raise company profits through introducing widespread insecure hiring. Migrants would become a late component of this precarious-labour strategy. On the other hand flexibilisation has involved far greater numbers of “native” workers and migrant hiring is not commensurate with temporary employment. By comparing figures from the “padrón” and ministry figures it can be seen that approximately a million irregular migrants

resided in Spain between 2000 and 2003 – a phenomenon that shall be returned to in the following chapter. The vast majority of migrants are wage earners and a considerable section work in a relatively developed “submerged” economy. It can be deduced, therefore, that irregularity fits comfortably with existing labour frameworks.

Migrants are relatively likely to work in unskilled posts (often despite formal skills), become unemployed, suffer poverty, and be evicted from their homes. It has been shown that a higher proportion of migrants are male in all regional groups bar Latin Americans – a collective that traditionally has included a large number of domestic workers. These features suggest that in general migrants were incorporated into low-wage and low-status activity in the period of expansion and were the first to lose their job in the economic downturn – a shift dramatically illustrated by the trajectory of migrant hiring in the building sector. Effectively migrants have played one of the roles of the “reserve army”: that responding to the cyclical economic expansion of certain sectors (including construction, domestic and hotel and catering work). This helps contextualise the evolution of the problematisation of immigration in relation to the crisis (aiding answering sub-question six on the issue, 1.4). Some migrants were hired in some business sectors during the crisis – suggesting that employers’ interest in migrant labour does not vary mechanically with economic cycles, but this was limited and does little to undermine my 2010 research findings that there was not a general process of substitution of native workers. Therefore there is little evidence of migrant labour acting as a substantial lever to contain wages and further flexibilise labour – the other function of the reserve army identified in 3.1.3. This reinforces the need for caution regarding misuse of the reserve army concept shared in that same sub-section.

The quantitative findings on immigrant residence and employment in Spain and Catalonia confirm a relatively large volume of “invisible” migration from Western Europe. This residence seems little affected by fluctuations in job markets and “invisibles” can be assumed wealthier than other foreign groups. Other patterns were detected and possible influences can be advanced. Comparatively pronounced African settlement in Catalonia has decreased, with the exception of Moroccan immigration (possibly fed by established migratory networks). This proportional decrease may have resulted from increased controls on the Mediterranean border (1.2.2, 5.1 and 5.2). Latin American settlement increased in the pre-crisis period but appears to have decreased subsequently due to job losses and second migratory phases (return or to other EU countries). The sharp increase in Romanian residence in Catalonia and the rest of the Spanish State is very likely due to the incorporation of this country into the EU. The Europeanisation and Latin Americanisation of migration in Catalonia and Spain (as well

as the reverse tendency of de-Africanisation of immigration in Catalonia) shall be returned to in Chapters Five and Seven.

¹ Historic Catalonia (“Països Catalans”) extended further across the Mediterranean and would today include Valencia, the Balearic Isles and some non-Spanish territories.

² The figure is from the Catalan government’s National Institute of Statistics department Idescat: <http://www.idescat.cat/pub/?id=aec&n=245> [Accessed 29 January 2016]

³ 2012 INE figures: http://www.ine.es/inebmenu/mnu_cifraspob.htm [Accessed 1 April 2012]

⁴ Idescat figures: <http://www.idescat.cat/pub/?id=aec&n=245> [Accessed 29 January 2016]

⁵ The term “region” is rejected by a great many Catalans that prefer to refer to the territory as a “nation” and Spain as a “state”.

⁶ 2012 INE figures: http://www.ine.es/inebmenu/mnu_cifraspob.htm [Accessed 1 April 2012]

⁷ This was the increase within three years – from 1979 to 1982 (Prieto del Campo, 2005: 53).

⁸ 80,000 million dollars between 1986 and 1991 (Marín, 2001: 396)

⁹ Spain joined Portugal, Ireland, Greece and (sometimes) Italy to successfully negotiate raising this funding to a value of over a quarter of all EC spending (Marín, 2001: 370.)

¹⁰ In 1981 pro-Franco army generals attempted a coup, briefly taking Congress hostage. In Valencia tanks went onto the streets. Even though the attempt gained only minority support in the army (and failed to win the support of King Juan Carlos the Second), it did shape many political debates and decisions in the subsequent years.

¹¹ This was also due to the previous Paris-led resistance to Spain joining the EC due to the competition Spanish agriculture would pose French farmers (Marín, 2001: 359-366).

¹² According to Marín, the PSOE dropped its previous aversion to staying in NATO in exchange for German support for its EEC membership (200: 364).

¹³ These bring together the Iberian states with Spanish and Portuguese speaking nations (Ministerio de Asuntos Exteriores y Cooperación, 2015).

¹⁴ The centre-left government, however, preferred to call it the “national festival”.

¹⁵ Electoral debate became dominated by the PP’s handling of the investigation, transmission of information and its deeply unpopular decision to send troops to Iraq (Montero, Lago & Torcal, 2007: 16). Even the PP recognised that the bombings had a “substantial influence” on the result of the elections. Several regression studies by Spanish sociologists found political appraisals were fundamental to the election outcome, imposing themselves over other considerations such as the growth of the economy (Fraile, 2007; Gramacho, 2007; Montero, Lago & Torcal, 2007).

¹⁶ According to a survey by the Centre for Sociological Research (CIS) published soon after the elections, over half the population thought that policies carried out in Zapatero’s first months were “good” or “very good”, compared to only 6 per cent that thought these were “bad” or “very bad”. The removal of Spanish troops from Iraq was seen by 50 per cent as a “very good” step.

¹⁷ ETA also assassinated Franco’s prime minister Carrero Blanco.

¹⁸ Three states of emergencies were declared between 1968 and 1970 (Prieto del Campo, 2005: 49).

¹⁹ The 1936-1939 Civil War was itself partly a continuation of the battle for and against Catalan autonomy (which even briefly led to the proclamation of a “Catalan Republic”. Franco often repeated that his “crusade” was against “reds, masons [liberal] and separatists”.

²⁰ <http://www.senado.es/web/conocersenado/normas/constitucion/index.html> [Accessed 15 December 2015]

²¹ Ibid.

²² The UCD’s reform was called the LOAPA reform; the González government that took office in 1982 added ceilings to regional powers (Balfour & Quiroga, 2007: 118).

²³ The name of the officially recognised Basque AC.

²⁴ The policy was described in political circles as “coffee for everybody” (“café para todos”).

²⁵ As an example the radical pro-independence Batasuna continued to be backed by 15 per cent of Basques until the 1990s, despite associations with ETA (Prieto del Campo, 2005)

²⁶ <http://web.gencat.cat/ca/generalitat/estatut/estatut1979/> [Accessed 1 December 2015]

²⁷ Euskadi and Navarre.

²⁸ Whether this is a case of “fiscal discrimination” or redistribution between richer and poorer ACs shall have to be examined elsewhere.

²⁹ Euskadi is the three provinces officially recognised as forming the Basque Country.

³⁰ The police force co-exists with other Spain-wide police forces.

³¹ The word “constitutional” was included to avoid associations between this Spanish nationalism and the widely-discredited “españolismo” of the Franco regime. “Constitutional patriotism” also has been employed by the PSOE and social-democratic media.

³² The Barcelona Declaration signed in April 1998.

³³ The general use of the term “constitutional” was probably to avoid associations between this Spanish nationalism and Franco’s extreme version. It has been used by the PSOE and social-democratic media also.

³⁴ The description was by Nobel Peace Prize Laureate Desmond Tutu: <http://freeotegi.com/declaration/> [Accessed 27 January 2016]

³⁵ The initiative was promoted by centre-right PNV president Juan José Ibarretxe, who eventually abandoned the idea (and the presidency; Pastor, 2012: 127 & 128).

³⁶ The other two parties in government were ERC (Catalan Republican Left) and ICV (the ex-Communist led Initiative for Catalonia-Greens).

³⁷ In 2013 the main motivation for supporting Catalan statehood was “the capacity and desire for economic self-management” (Bel, 2013: 45).

Since the period object to this study a fully fledged independence process with mass active support has begun (Stobart, 2015b).

³⁸ Similar views have gained popularity among non-Catalan Spaniards. Research suggests that since 2008 the overall preference for the autonomous territorial framework among Spanish citizens has halved at the expense of support for reducing or even abolishing decentralisation (Bel, 2013: 25).

³⁹ Growth was of 8 per cent in the 1960s. The proportion of the population working in agriculture fell from 40 per cent in 1960 to 22 per cent in 1975 (Köhler, 1995: 75).

⁴⁰ Several economic studies published in the 1990s coincided that underlying these turbulences was a long-term decline in Spanish rates of profit over investment (albeit halted temporarily during the late 1980s; Cámara-Izquierdo, 2007: 547). Another factor may have been Spain's incorporation into the EC, which encouraged trade imbalances, fast financial inflows and outflows and an overall economic dependency on housing and banking (Marín, 2001: 368 & 369).

⁴¹ 52 per cent in 1984 to 71 per cent in 1992

⁴² In 2008 Spain was the fifth biggest economy in Europe but, according to Eurostat figures, it was twentieth in spending as a proportion of GDP (41 per cent; Eurostat figures in Ayllón, 2010).

⁴³ The 1993 reform introduced temporary-employment agencies and generalised labour contracts labelled as "rubbish contracts" by critics. The attempt to introduce insecurity was temporarily stalled by a strong general strike, which prevented the introduction of precarious apprenticeship contracts for young people (Marín, 2001: 441-413). Spain ended up being the country with the highest proportion of insecure employment in the Organisation for Economic Cooperation and Development (OECD).

⁴⁴ The social consequences of normally long periods of precarious employment include a relatively late emancipation of young adults from family homes and related low birth rates. According to a study by the Youth Council of Spain (CJE) in 2013, 7 per cent of 16-24 year olds and 44 per cent of 25-29 year olds live separately from their parents: <http://www.cje.org/es/publicaciones/novedades/observatorio-de-emancipacion/> [Accessed 28 January 2016]. Some of these figures are accountable to the impact of the crisis on youth employment and earnings but figures were relatively high during the period of economic expansion a decade earlier.

⁴⁵ In 2006 34 per cent of all Spanish jobs were temporary. After the crisis led to a disproportionate loss of many insecure jobs, the figure fell to 25 per cent (Pajares, 2010: 71).

⁴⁶ Also, the gap between the time that migrants and non-migrants worked on average in the same job increased between 1999 and 2007 (Colectivo Ioé, 2008: 95).

⁴⁷ This argument was presented within an aggressive wider argument that immigration in Spain had been "unbearable ... for the most disadvantaged classes" (2007: 24).

⁴⁸ Two out of three young workers in 2006 were hired on temporary contracts (Taifa, 2006: 29). Older "native" women also have been hired in large numbers on such contracts: women are nearly twice as likely as men to be working precariously (ibid: 24).

⁴⁹ <http://www.theguardian.com/business/2014/jan/30/spain-black-economy-gdp-growth> [Accessed 10 December 2015]

⁵⁰ Estimations by the tax inspectors' union and World Bank –for 1996-2007- in Roig, Berta. 2010.

⁵¹ Financial accounts published by conservative as well as progressive newspapers:
http://elpais.com/elpais/2013/01/31/inenglish/1359635492_820496.html [accessed 2 December 2015]

and admissions by elected representatives:

http://politica.elpais.com/politica/2013/01/31/actualidad/1359667322_987068.html [accessed 2 December 2015] have helped make the “Bárceñas case” a major corruption scandal. See also:
<http://www.ft.com/intl/cms/s/0/e917eea4-ed6c-11e2-8d7c-00144feabdc0.html#axzz3t5KTtEbJ>
[accessed 2 December 2015].

⁵² This could also be translated as “Spain is going well”.

⁵³ Financial Times. 15 August. 2009

⁵⁴ At the end of 2005 a total of 9.7 million Spaniards were employed on permanent contracts, and 4.2 million on fixed-term contracts. By the last quarter of 2009 a total of 10.3 million had “permanent” posts and 2.9 million, temporary. In the same period temporary employment of migrants decreased by a much smaller margin – from 1.2 million to 1 million jobs (Pajares, 2010: 72.)

⁵⁵ In this period a tenth of the Spanish population emigrated abroad.

⁵⁶ Immigrants.

⁵⁷ Many of those with Italian passports also came from Argentina.

⁵⁸ However, many migrant women transfer to other sectors after renewing their work permit (González-Enríquez & Herranz-Andújar, 2008: 98). The sector suffers from lack of regulation, unionisation, and workers are often undocumented (Solé & Parella, 2001: 39-42; Martínez-Veiga, 145-159; Stobart, 2009: 35 & 36).

⁵⁹ The INE figures include those from the quarterly EPA results.

⁶⁰ The EPA for the fourth quarter of 2015 used a sample of 65,000 families

(http://www.ine.es/dyngs/INEbase/es/operacion.htm?c=Estadistica_C&cid=1254736176918&menu=ultiDatos&idp=1254735976595)

⁶¹ Another study was reported as identifying an increase in the population between 2001 and 2006 of 800,000 persons – of which 700,000 was accountable to migration (Playà-Maset, Josep. 2007).

⁶² A very small number of those from the Americas are from the USA or Canada.

⁶³ The very small numbers from English-speaking North America and Australasia shall be treated as negligible.

⁶⁴ The OPI uses municipal-census data but not in all calculations.

⁶⁵ Compared to 19 per cent (Africans) and 6 per cent (Asians) for the whole of Spain (4.3.1.1)

⁶⁶ Because across the “national” territory the increase in Latin American residence stopped after the crisis, we can assume that the proportion of Latino migrants in Catalonia probably also has fallen since 2008.

⁶⁷ The “rest of Europe” category used to present the data includes Russians and Ukrainians –raising questions about the criteria being used to define “Europe”.

⁶⁸ 2001: <http://www.idescat.cat/pub/?id=aec&n=272&t=2001&x=9&y=4> [Accessed 10 December 2015];
2006: <http://www.idescat.cat/pub/?id=aec&n=272&t=2006&x=15&y=5>. [Accessed 10 December 2015];
2011: <http://www.idescat.cat/pub/?id=aec&n=272&t=2011&x=10&y=2> [Accessed 10 December 2015].

The three figures are based on OPI and Interior Ministry figures. It is not made clear, however, which OPI figures are used and whether they are definitely based on municipal records or EPA surveys. The figures should therefore be treated as likely, rather than definite.

⁶⁹ A 2003 study on African migrant labour found “[g]eographical concentrations of single (or multiple) African nationalities” (Mendoza: 230). Some national groups – including from Africa and Eastern Europe - are relatively evenly distributed across the four Catalan provinces (Statistics Institute of Catalonia, 2008: 16 & 17)

Chapter Five

Primary and secondary findings on multi-level policy: dissonance in seeking control, labour and integration

Having given an outline of the general political economy of Spain and Catalonia, and after providing a detailed portrait of immigration in the territories, this chapter has a twofold aim. First, the contextualisation to the research is completed – concretely by describing the policy and policymaking frameworks in which paradoxes have emerged. Second, through such an account some preliminary ideas are advanced as to the sources of policy gaps (1.3). In order to provide a three-dimensional view, literature is reviewed on policies and institutional processes at three territorial levels: the EU, Spain and the Autonomous Community (AC) of Catalonia (in all cases centring on the period between 1985 and 2011).

The account begins with a fairly detailed outline of the complex and uneven development of European policy – particularly with regards to border management. Although the present study has a more territorially reduced scope, a minimum examination of continental processes is needed to identify whether political contradictions and procedural inconsistencies stem mainly from competing institutional jurisdictions and priorities. As shall be demonstrated, by introducing (and developing later) the inter-relationship between the EU and Spain with regards to immigration policy, it is easier to identify the exact political role of states even vis-à-vis subordinate institutions – such as the Generalitat (Catalan government). In the middle section first the general evolution of (official) Spanish policy is charted, as are policy *processes* (which in the Spanish case are little-researched, Bermejo, 2008: 32). The examination then moves on to survey the policy *literature* in relation to the large and growing levels of irregularity in the country. The conclusions from this sub-section will be compared to the relevant *interview findings* later in the dissertation. Other Spanish policies of interest – including in relation to asylum – are also briefly illustrated here.

The final sub-section of this chapter focuses on the unsatisfactory attempt by the Catalan institutions to gain powers to politically manage the new immigration in order to give primacy to local cultural and linguistic “integration”. Chapter Five ends by looking at some important policies developed by the Generalitat. This discussion, as well as guaranteeing presenting the policy framework adequately for a state as decentralised as Spain, aids analysing the interrelations between state and sub-state (as is performed in later chapters).

In order to take advantage of interviewees' generally high level of expertise on policy and the processes by which strategy is designed and implemented, findings from the interviews are woven into most of the present chapter (particularly on Catalan and Spanish policy and policymaking). However, with regards to the issue of irregularity and other areas where empirical findings undermine formal or surface political accounts, the findings presented here are only from the secondary sources (reports, books and articles) and the empirical results are analysed in more detail in Chapter Seven.

5.1 Europe

5.1.1 Slow and uneven evolution of EU migration governance

In Spanish political, media and social-activist discourse, the European Union (EU) is commonly presented as the key territorial level determining the immigration policies of member states and sub-states. Yet, in the immigration field political union has been slow, uneven and in 2015 began threatening to go into reverse¹ (5.1.2.1). The 1957 Treaty of Rome² established the principle of free movement for workers – alongside goods, services and capital – within a “common market” but this only permitted cross-border labour transfers and it was not until 1985 (the Single Act) that the EU's internal barriers to the public started being dismantled (Moraes, 2003: 117; Geddes, 2003: 129). Until the 1990s, law making on asylum, nationality and immigration remained national, and most immigration and asylum policy areas remain a “national prerogative” (Geddes, 2003: 130 & 131; Calavita, 2005: 4). There is no integral European immigration policy (or European Aliens' Law; Mr. E – migrant-network activist), and despite common border-control obligations, it is states that decide how many migrants can settle in them (see 5.1.2; Mr. R – Catalan policy advisor).

Inter-state cooperation and “communitarisation” of policy has been slowed, and its decisions and proposals sometimes not ratified or ignored (for example on asylum after 1999 – see 5.1.2 & 5.2.3), because the EU is a hybrid project – combining regional supranational structures with an unequal alliance of states. Differences, tensions and conflicts between states are common and lead to countries with similar interests “blocking together” during negotiations on common policy and its enforcement (Menz, 2009a: 6)³. The internal “core-periphery” division in Europe employed by Lapavitsas et al. in relation to financial and economic policy appears to shape immigration dynamics also (2012). A southern-northern

axis appears to have emerged, despite occasional alliances between individual peripheral and core governments. Factors that may have encouraged polarisation include, on the one hand, the core's economic, political and institutional dominance in Europe, as well as its older immigration and opposition to labour migration; and, on the other, a common experience of transition from military regimes to liberal states, geographical proximity to Africa, strong underground and (in many cases) bifurcated formal labour markets, late incorporation into the EU, and comparable economic cycles (4.2). According to Geddes, EU migration policy obligations have had most influence on processes in the newer immigration destinations of southern and eastern Europe – a view examined in 5.2, 6.1.1 and the Conclusion (Chapter 8; Geddes, 2003: 128).

Gradual communitarisation and multi-tier development of policymaking

The EU has a many-tier institutional framework. Formally, it has two decision-making bodies: the Council of the European Union (in which member-state ministries are represented) and the directly elected European Parliament (European Union, 2015a; Moraes, 2003: 116). It also has a “politically independent executive arm”; the European Commission (appointed commissioners and EU civil servants). Furthermore, European heads of government hold quarterly European Council summits “to set the broad direction of EU policy making” (European Union, 2015b; Moraes, 2003: 116; European Union, 2015a; European Council, 2016). Decades ago routinized ad-hoc working groups of ministers began developing policies (for example on control, terrorism and policing in the “Trevi group”, Moraes, 2003⁴). After the 1992 Maastricht Agreement these became permanent structures. “Informal inter-governmentalism” mutated into “formal intergovernmental cooperation” (Geddes, 2003: 132-139). The European Council was allowed to make decisions for all member states, but only if unanimously supported – complicating policy evolution (ibid: 135). The Amsterdam Treaty passed at the end of the decade established the *communitarisation* of policy to be enacted by the mid 2000s (on “visas, asylum, immigration and other policies connected with people’s free circulation”, Pisarelo & Aparicio, 2008: 47)⁵.

Some scholars have identified democratic shortcomings in European policymaking (Fernández-Bessa, 2008; Pisarelo & Aparicio, 2008; Cetti, 2015). Often, European civil servants have played an important role in developing policy initiatives, and decisions with a perceived security dimension are made at enforcement level by institutions such as Interpol⁶ (Pisarelo & Aparicio, 2008: 47; Cetti, 2015). The European Agency for Border Management

(Frontex) has enjoyed a particularly high degree of autonomy, due to an absence of regulation, staff accountability, or democratic oversight by the European Parliament that provides it with many millions of euros per year (5.1.2.2). Moreover, Frontex' present and past operations remain undisclosed (Mr. E; Cetti, 2015). This is despite considerable criticism of its practices from NGOs (5.1.2.1; Cetti, 2015). Control functions have been outsourced to security, defence and transport corporations, which

play a fundamental role in setting Europe's immigration and asylum agenda, helping direct its policy and manage its activities, and shaping its ideology, rhetoric and rationale (Cetti, 2015).

Due to the extent of geographical and organisational outsourcing, the European Commission stated that it had encountered "major difficulties" obtaining information on the EU's extensive and varied network of detention centres. Several tiers have been identified within EU immigration management (ibid).

5.1.2 Common policies

Despite the slow and problematic development of EU policy-making and related structures, major EU immigration policies have been agreed with considerable implications for member states: on mobility within the Union and control of external borders.

Near removal of internal borders under Schengen

A Financial Times editorial celebrated the Schengen Accord as "one of the most visible manifestations of European unity" (Financial Times, 2016). The celebrated side to the agreement was to allow free movement for all persons between member states, and award European citizenship to all member-state nationals (Mr. R – Catalan policy specialist). The other side of the agreement was to strengthen external border controls. The agreement was first signed in 1985 by France, Germany and the Benelux countries (Geddes, 2003: 131). It became a Convention in 1990, and covered thirteen states by 1997 (ibid). Spain became a signatory in 1991 (Menz, 2009a: 40). With the Treaty of Amsterdam in 1999, Schengen became part of the "acquis communautaire"⁷ (Geddes, 2003: 131.)

The agreement gave migrants entering EU border states the right to circulate to and between other states (although more restrictive conditions were applied for “third country nationals”, Pisarello & Aparicio, 2008: 46). Controversy arose because in the pre-crisis years border states such as Spain and Italy required labour in secondary markets (ibid). Irregular immigration into the countries became commonplace and it was perceived that they acted as a “back door” to Europe (see 5.2.2.2; Calavita, 2005: 3). In the crisis years, Schengen was increasingly weakened by unilateral state decisions to block entry or perform deportations. France returned migrants entering from Italy, and was strongly criticised by the European Commission vice-president after deporting 8000 EU Roma citizens in 2010⁸ (Mr. E – Papers per a Tothom activist). Since the research was completed, an increasing number of member states have implemented a “temporary reintroduction of border control” and disintegration of the Schengen system is being treated as a real possibility in elite circles (Directorate General of Migration and Home Affairs, 2016; Barker, Byrne & Vasagar, 2015; Financial Times, 2016).

Internal mobility has been a substantial factor in European labour strategies, particularly as the expansion of the EU eastwards has made available large reserves of unemployed and low-wage skilled workers (Hardy & Fitzgerald, 2008: 4). In Britain and Ireland migrants from the EU periphery have been hired – sometimes at source through temporary employment agencies – to work in transportation, construction, farming and food processing, and retail on lower-wage and/or flexible contracts (ibid: 6-9)⁹. EU-15 states were given the option of applying “transitional” restrictions on migrant entry from New Member States, and most countries chose to do this (ibid: 11).

EU directive 2006/123/EC (popularly known as the “Bolkestein directive”¹⁰) attempted to make European companies operating services in other member states “subject only to the national provisions of their member state of origin” – meaning that companies from less-regulated states (normally in the poorer periphery) could operate in more regulated countries applying the operating regulations of their “country of origin” (Monbiot, 2005). If combined with at-source hiring, which was considered likely, the measure would have been a clear example of migrants being used as a “reserve army” (see 3.1.3). The measure was highly controversial among continental unions and social movements. The COAG farmers’ representative interviewed even compared such attempts with “today’s slavery” (Mr. G). The measure was abandoned by Bolkestein’s successor but it has been interpreted as an indication of the direction of EU policy (Monbiot, 2005). The CIG trade unionist interviewee illustrated how such an approach already is being introduced: the Galician building sector

sub-contracts Portuguese firms that apply the lower wage rates and poorer conditions of their country (Mr. L). Importing low-wage labour and offshoring production have been identified as “interrelated aspects of European restructuring” – part of a “neoliberal agenda” to increase the competitiveness of the region (Hardy & Fitzgerald, 2008: 3).

EU border policy and its two features

The other side to Schengen – external border policing – also has been an integral policy of European integration, and has had considerable practical impact (Cetti, 2015). Under the Convention joint surveillance systems and a continental database were introduced (Ibid)¹¹. Frontex was set up in 2004 to provide “integrated border management” using over a hundred boats, hundreds of mobile radar and two dozen helicopters and planes (Mr. R – Catalan policy advisor; Pisarello & Aparicio, 2008: 51)¹². It was used in 2007 to prevent the “reopening” of the migratory route from Algeria and Morocco to Spain (Gil Araujo, 2008: 36). Common regulations have been agreed regarding visas and stays of over three months, and directives on return procedure for migrants entering irregularly (Pisarello & Aparicio, 2008: 47; Mr. R).

There are two features of EU border policy as it has developed that should be highlighted. First, from the 1980s onwards illegal immigration has been treated as overlapping with security threats (including terrorism) and organised “trafficking” of different kinds – leading to the “criminalisation” and “securitisation” of immigration (5.1.1; Geddes, 2003: 130; Pisarello & Aparicio, 2008: 46; Fernández-Bessa, 2008: 9; Cetti, 2015). The EU’s de facto constitution (the Lisbon Treaty) identified as a central policy aim the prevention of “illegal immigration” (Cetti, 2015).

Second, the territorial scope of policy and enforcement has spread east and south – beyond European waters. This approach, now officially termed “the European Neighbourhood and Partnership Policy”, has meant African and Middle Eastern states receiving development aid in exchange for keeping their own citizens inside their state – in the case of the sub-Saharan African states – or playing an additional role of “buffer state” to control migration from other states – in the case of North African and Middle Eastern states bordering Europe (Mr. J – CC.OO lawyer; Fernández-Bessa, 2008: 9). This process began at the Euro-Mediterranean Ministerial Conference in Barcelona in 1995, and has been developed since at EU-Africa summits, in which Europe has threatened to raise import tariffs for those African states failing to reach agreements (Pisarello & Aparicio, 2008: 51). “Second

generation” – repatriation – agreements with non-bordering African states became a political priority for the PSOE government after the large arrivals of migrants in the Canaries in 2006 (the “small-boat crisis”; Romero, 2008).

This “offshoring” of border control has also taken the form of bilateral agreements between individual states, a process which the PSOE government boasted of spearheading in the 2000s (due to the large number of agreements it signed with African states; see Table 5.1; Fernández-Bessa, 2008: 8¹³). Agreements incorporate issues such as (on the one hand) aid, investments, migrant-labour quotas and fishing rights; and (on the other) accepting “returns” of nationals and “readmissions” of all foreign entrants from their territory (see 5.2.2.2; Mr. J – CC.OO.). In the Spanish case bilateral accords have reduced migration across its southern border¹⁴. Its key partner in this has been Morocco, which received from the EU a total of €654 million euros between 2007 and 2010¹⁵.

**Table 5.1: Bilateral agreements between Spain and countries of origin or transit
1999-2009**

| Country | Year |
|---|-------------|
| Morocco | 1999 |
| Morocco * Colombia * Ecuador * Nigeria | 2001 |
| Romania * The Dominican Republic * Poland * | 2002 |
| Bulgaria * Mauritania Equatorial Guinea | 2003 |
| Peru | 2004 |
| Ghana | 2005 |
| Guinea Conakry Gambia Mali Cameroon | 2006 |
| Cape Verde Senegal Mauritania | 2007 |
| Niger | 2008 |
| Equatorial Guinea | 2009 |

Source: Sacristán-Romero, 2006; Romero, 2008: 168 & 170; Garcés-Mascareñas, 2012: 129 & 133; CEAR-Euskadi, 2008

* Agreements that include labour “quotas” (Sacristán-Romero, 2006; Garcés-Mascareñas, 2012: 133).

Agreements also include externalising detention facilities – meaning that many of the EU’s 178 temporary internment centres are now located outside its territory, and creating “transit processing centres” for asylum applications (Pisarello & Aparicio, 2008: 50). In 2011 Frontex was given the role of offering “technical assistance” in the “third countries” (Cetti, 2015). The

European Council on Refugees and Exiles has denounced that agreements rarely contain criteria on asylum and detention procedures, or against discrimination and “refoulement”¹⁶ (Cetti, 2015.)

Some of the southern states involved have poor records on respecting human rights, and despite difficulties in monitoring processes NGOs have identified major abuses. Cases include thousands of migrants left in the desert on Morocco’s Algerian border without food or water, and many Africans killed by police and soldiers while trying to cross the fences into Ceuta and Melilla – including by Moroccan military police using live ammunition¹⁷ (Garcés-Mascareñas, 2012: 172). The NGO Médicins Sans Frontières treated 2,554 immigrants for violent injuries at the hands of Moroccan security forces between April 2003 and August 2004 (Legrain, 2006: 27). A by-product of offshoring control has been the greater “racialisation” of Sub-Saharan Africans in the countries of transit – also including Libya (Cetti, 2015).

The anti-racist organisation SOS Racismo has questioned the whole externalisation strategy as invisibilising the “tragic effects” of EU border control (2008: 46-48). The approach has been located within a wider “shadow” policy tier – as identified by Liz Fekete (Cetti, 2015). Despite a European-Parliament-commissioned report finding many unacceptable conditions and processing delays in detention centres¹⁸, in 2008 the European Parliament extended maximum detention times to eighteen months.¹⁹ In practice guarantees included in EU directives are sometimes ignored – for instance over prohibition of refoulement and group expulsions (Pisarello & Aparicio, 2008: 49; Cetti, 2015).

Other EU policies and their limitations

With regards to asylum, regulation of the 1990 Dublin Convention ruled that applications should be made in the EU member state of entry – ostensibly to avoid “asylum shopping”²⁰ (Geddes, 2003: 133). This has proved unpopular among border states such as Greece and Italy in which asylum reception and processing has naturally become concentrated (Cetti, 2015). Creating more general procedures on asylum was put forward at the 1999 European Council meeting in Tampere, as were proposals to make migrants’ rights “as near as possible to those enjoyed by EU citizens” (Pisarello & Aparicio, 2008: 47). Yet by the 2002 Council meeting, none of the proposals had been ratified in national laws (ibid; Calavita, 2005: 4).

Directives have been approved on the right to family reunification (2003/86), the rights of long-term residents (2003/19), migrants' integration and the seasonal employment and inter-firm transfers of employees (Mr. R – Barcelona-based policy advisor; Ms. M – construction employers' representative). However, according to legal scholars Pisarelo and Aparicio (2008: 48), policy harmonisation took the form of generalising those national frameworks with lower guarantees.

5.1.3 Neoliberalism and bidirectional political influences

The above discussion shows that the Union's role in directly determining policy formation and practice in member states clearly has its limits. However, political processes in Spain suggest that the EU is a major influence – even if sometimes a less visible one. One example is regarding Spain's first "Ley de Extranjería", which was introduced in July 1985 "almost entirely" as a result of outside pressure in relation to Spain entering the EEC the following January (see 5.2.2; Cornelius, 2004: 404). There were fears that the new member state would become one of "transit" to the rest of the Union, and the new Law was highly restrictive (5.2.2; Garcés-Masareñas, 2012: 118, 119).

Second, EU policy has encouraged visa requirements to be introduced for travel to Spain (Ms. B – specialist on irregularity and policy). This happened gradually and selectively nonetheless. In 1991 the prerequisite was applied to North African countries. From 2001 it was progressively extended to Latin American countries (Garcés-Masareñas, 2012: 120). This was a problematic step as many of these countries had dual nationality agreements with Spain, and it undermined the Hispanic community idea promoted by all governments from Franco to González, and made concrete in the PSOE's practical initiative to create the Ibero-american community of nations (Cornelius, 2004: 410). A last illustration of the EU's role is that it was responsible for the increased surveillance at identified irregular-entry "hot spots" in Spain (Cornelius, 2004: 407). These examples make it understandable that activists for migrants' rights felt that EU policy was the key to understanding processes. For a representative of a large Catalan anti-racist organisation, "Spain" is simply "not allowed to have a migratory policy different to Europe", whose policy is labelled that of "fortress Europe" (Ms. A – SOS Racisme spokesperson).

Yet the political relationship between the EU and member states has not been unidirectional. The continued agency of nation states is demonstrated by the reintroduction of

national border controls, the delayed removal of borders for migrants from new member states, the downwards harmonisation of policies unrelated to controls, and the Spanish government's role in developing the European Neighbourhood Policy (5.1.2). EU migratory policy can also be understood as being shaped by the neoliberal strategies of European states and their regional project. Politically speaking these have helped develop the model of the "competition state" in which "migrants are welcome, as long as they promise to contribute to the prerogatives of a business-friendly national economic growth strategy" (Menz, 2009b: 316 & 317). Such a development is reinforced by employers being increasingly incorporated in policymaking processes (particularly in Brussels) and providing data and ideas for these processes (ibid: 318-329). For Menz, the competition state encourages "a liberalised [labour] recruitment strategy" that exists alongside and conflicts with "more restrictive practices towards unsolicited migration flows" (ibid: 318; 2009a: 5).

Fernández-Bessa sees that EU immigration policy has been characterised by the "interrelation between the logic of the market and the logics of control" (Fernández-Bessa, 2008: 9). This could be used as a descriptive "shorthand" for dynamics but incorporates a similarly artificial economic and political bifurcation as in Harvey's later writing – the limitations of which were indicated in Chapters Two and Three. Arguably as an institution the European Union exhibits less political autonomy from the large corporations than states, so the description probably has less explanatory power applied to continental processes. A last point is that the neoliberal political-economy of contemporary Europe, and its attendant social failures and inequalities, has been a factor in the rise of strong right-wing populist and xenophobic movements in several EU countries²¹ – a development that has encouraged more nationalistic and anti-immigrant policies in general and reinforced policy tensions and inconsistencies inside the Union (Cetti, 2014; 2015).

5.2 Spain

5.2.1 Spanish policymaking and transformations

Most policy affecting Spain and Catalonia is decided in Madrid. As well as being determined by government and parliament, the Spanish "style of public policy" has meant "social agents" have played a major role in decision-making and consultation – a system that has its roots in the political culture that emerged during the Transition (Bermejo, 2008: 32; 4.1.2). On a

political-institutional level, until the mid-nineties, several ministries had immigration responsibilities: the Ministry of Labour (migrant labour, processing work permits and social security); variably the Ministry of Social Affairs (focused on integration); the Ministry of Foreign Affairs (visas); and Ministry of the Interior (control of borders; Bermejo, 2008: 33). Under Aznar's majority government (2000-2004) immigration was transferred "structurally and physically" to the Ministry of the Interior – reflecting and reinforcing a focus on security and public order – in other words, treating "immigration as a police function", (ibid; Ms. T – the presidential advisor; Calavita, 2005: 34). At the same time, according to Bermejo, an "Inter-ministerial Commission" ensured that all ministries participated in developing policy (2008: 33).

After the Zapatero government took over in March 2004, the political administration of immigration was transferred from Interior to the Ministry of Labour – although Interior retained some powers (Ms. T; Ms. R – border policy specialist). Following the government's re-election in 2008, the ministry was renamed the Ministry of Labour and Immigration, in line with the "economic approach" to immigration advocated by the PSOE at the time (see 5.2.2.1). Administratively, immigration rose in rank (Ms. R). The structure within each ministry is headed by a "state secretary" who is "responsible for executing the government's policy in a specific activity sector" (Bermejo, 2008: 32). Practical implementation is the responsibility of a range of civil servants (state managers, general secretaries and sub-secretaries, technical general secretaries and general deputy managements, ibid: 32 & 33). These functionaries have played an important advisory role to the normally elected secretaries (ibid). In the early 1990s, a Permanent Immigration Observatory linked to the General Secretariat of Immigration and Emigration was introduced to perform research and monitoring on migration issues in general²².

Border control is managed within the Ministry of the Interior by the General Directorate of the National Police – the force responsible for providing documents to foreigners and cooperating with the EU on immigration policing – and the Civil Guard – the paramilitary force that provides surveillance on borders where not equipped for entry (ibid). In Bermejo's view, those responsible for implementing border controls are "privileged" in that they have a role in decision-making unlike other public servants (ibid). To underline the importance of migratory affairs to the PSOE government and coordinate better between ministries, in May 2004 a Government Office for Alien Affairs and Immigration was set up led by someone with equivalent rank to state secretary was created (ibid: 34). According to its Deputy Director, the

Office also has also incorporated police agents to contribute to the “joint design of actions and planning” (ibid).

The Aznar government had operated according to a more unilateral government approach, but now “social dialogue” was reincorporated at the centre of processes. A permanent Tri-Partite Labour Commission²³ was set up by the Ministry of Labour and Social Affairs in 2005 (Ms. M – employers representative in Commission); and, according to the ex-spokesperson for the migrant section of CC.OO., the general objective was to reach a social “consensus” to develop bills for parliamentary approval (Mr. M – ex-CITE representative). The “new model of social dialogue for immigration issues” was described as the most fundamental change in immigration management under the Socialists (CC.OO. lawyer Mr. J). Opposition parties have sometimes played a role in promoting legislative changes. For instance, in 1990 and 2000 the Communist-led IU – and centre-right pro-Catalan CiU on the latter occasion – helped bring about parliamentary processes to liberalise legislation (Garcés-Mascreñas, 2012: 145 & 149).

Consultative forums and their changing importance in the 2000s

Two Spain-wide consultative bodies exist to develop policy. The Economic and Social Council (CES), attached to the Ministry of Labour and Immigration, develops or evaluates recommendations for bills and (sometimes) regulations on economic and socio-economic matters (Ms. S – CC.OO. representative in the CES; CES, 2011: 13). In 2011 the Council comprised twenty appointed “advisors” from “the most representative” employer organisations and trade unions²⁴ (CES, 2011: 9); fourteen from “third sector” organisations (farming, fishing, consumers, and Spain’s large social-economy sector²⁵); and six “experts”²⁶ (Ms. S; Ms. C –social-economy sector representative; CES, 2011: 9). The Council, which has been a permanent institution since 1991, produced the text that would form the foundation for the 4/2000 Aliens’ Law; and in 2004 produced a report on migrants and the labour market that influenced the new government’s immigration policy (Ms. S; Mr. J; CES, 2004; see 5.2.2.1).

Another significant (and high-profile) consultative forum is the Forum for the Social Integration of Immigrants (FSII), created in the last years of the Gonzalez government²⁷ and legally regulated in the 2000/4 Law.²⁸ The FSII establishes short-term and long-term integration objectives and issues reports and recommendations (Ms. T – presidential advisor). “In theory the government then processes the information it receives to do

programmes” (Mr. R – Catalan policy advisor). Its committee is mainly made up of immigrants associations (of varied goals, nationalities and regions) and representatives of authorities at local, AC and Spanish territorial levels (predominantly from central government²⁹), as well as the social agents included in the CES³⁰ (Mr. R ; Mr. V – Forum for the Social Integration of Immigrants).

The Forum is presided over by a respected academic in the field and meets at least twice yearly (Ms. T). Soon after the El Ejido conflicts the government appointed as president an anthropologist, Mikel Azurmendi, who had authored a book downplaying their importance (a “street brawl” motivated by “fear ... not racism” or xenophobia; 1.1.1; Rius-Sant, 2007). Azurmendi became controversial again in 2003 by writing that “multi-culturalism” is the “gangrene” of democratic society (Calavita, 2005: 95). The fact that a person of such views was chosen to head the attempt to incorporate migrants into society, was interpreted as demonstrating a lack of official interest in integration (Rius-Sant, 2007).

Civil society’s roles in processes

Unions and large employers’ associations participate (alongside representatives from the ministries) in establishing the general strategy and numbers for the Annual Foreign Workers Programme (or “quota scheme”; see 5.2.2.1; Garcés-Mascareñas, 2012: 128). Employers are then given a significant practical role in the hiring process: they can chose the country of origin (since 2002 only from those with which Spain has bilateral migrant-labour agreements³¹; Garcés-Mascareñas, 2012: 133). This capacity to select has sometimes resulted in Latin American hiring over Moroccan (ibid: 133 & 134). There is little participation by SMEs or “social-economy” firms, as generally it is not practicable for them to recruit through the system (Ms. C – CEPES spokesperson; Ms. B – Spanish policy specialist). The complementary regular process of determining a “catalogue of hard-to-fill occupations” includes social agents at more local territorial levels (Garcés-Mascareñas, 2012: 128). A third process of legally hiring abroad, the “Régimen General” (General Provisions) process for posts where “native” employees have not been found, has meant migrants living in Spain playing the role of “recruiters” for migrants in origin through kinship networks (see 5.2.2; Garcés-Mascareñas, 2012: 132).

Both formal lobbying and mobilisations by migrants and supporters play an indirect role in policymaking. The modification to the 1985 Aliens’ Law passed in 1996³² that introduced the status of “permanent residence” and began regulating family reunification was promoted

first by migrants' organisations, NGOs, and lawyers' associations – backed by the ombudsman (López-Sala, 2007: 9; Garcés-Mascareñas, 2012: 147). The migrants participating in the 2001 church lock-ins, hunger strikes and demonstrations were regularised as a consequence and helped bring about the 2001 regularisation (1.2.1; see 5.2.2.1).

5.2.2 Spanish policy 1985-2011

5.2.2.1 Evolution of policy

The creation of Spain's irregular migration model

Although Spain's legal and institutional framework was fashioned in 1978 – beginning with the Constitution, the first legal provisions expressly applicable to foreigners were those of the 1985 Organic Law on Foreigners³³ (Garcés-Mascareñas, 2012: 118). The Law introduced the first visa requirements, and permits for residence and work, as well as deportation measures in the case of non-compliance. Among those made immediately “illegal”³⁴ was the large Moroccan-born population of Ceuta and Melilla, which mobilised through a little-known “civil rights” movement until they won Spanish citizenship (Rius-Sant, 2007). Detention for deportation could also be applied to those who act “contrary to public order” or “devote themselves to begging or other conduct deemed socially unacceptable” (Cornelius, 2004: 404). The Law was compared by immigration scholars to a “police approach” (ibid). The externally and artificially created nature of such legislation (5.1.2) has been denounced by several writers (Cornelius, 2004: 404; Rius-Sant, 2007; Garcés-Mascareñas, 2012: 118; Solé & Parella, 2001: 15). Solé & Parella wrote that in the mid-eighties “Spanish society did not consider the matter to require government intervention” (ibid).

Migrants could gain work permits through the “Régimen General” (general provisions), according to which foreigners could be legally hired if it was found that a job could not be filled by an EU citizen (Cornelius, 2004: 85; Garcés-Mascareñas, 2012: 123). However, the provisions were applied restrictively, taking into account general rates of unemployment, as opposed to those of the sector in question (ibid). Application of the Law was limited in 1987 after the Constitutional Court dismissed as unconstitutional articles on long-term internment prior to deportation, denial of migrants' right of meeting and protest, and the prohibition of juridical suspension of expulsion orders³⁵. Yet the Law set the template for policy over the

following decades. Police spot-checks on black and Arabic persons became commonplace – particularly as legislation formally aimed at combatting terrorism could for many years be used for this purpose³⁶ (Cornelius, 2004: 404).

The law, its application, and subsequent reforms over the following fifteen years underpinned the “model of illegal immigration” and hiring that shaped processes through the 1990s (Garcés-Mascreñas: 2012: 119). Demand for migrant labour was growing (particularly after the 1990s recession ended), but work permits were complicated by being conditional on having residence authorisations from both the Labour and Interior ministries, and which required having a work contract – a “catch-22 built into the permit system”³⁷ (Cornelius, 2004: 404; Calavita, 2005: 41).

The Annual Foreign Worker Programme (commonly known as “quota scheme”) was introduced in 1993, allowing the recruitment of a predetermined number of foreign-resident workers for particular sectors and provinces (Cornelius, 2004: 404). The scheme would require prior assessment of general labour needs (Garcés-Mascreñas, 2012: 128). The countries of origin governments’ would normally determine the persons chosen (ibid: 130).³⁸ After difficulties emerged with administering hiring abroad, irregular residents were allowed to participate in the system (ibid: 124), leading the Programme to be criticised as a “disguised legalization program” (Cornelius, 2004: 406). As a result, immigration was fundamentally irregular. For the ex-CITE spokesperson, “restrictive regulations” meant “people enter irregularly or enter as tourists and begin to be irregular when they start working” (Mr. M). Furthermore, due to the hardness and unexpectedness of the 1985 Law, many migrants feared applying for regularisation when an extraordinary regularisation process (“amnesty”) was held in 1996, preferring to remain undocumented (Cornelius, 2004: 414).

Hardening of policy under Aznar

A 1999-2000 process to create a new Aliens’ Law involved the major parties, unions, immigrant associations and many NGOs, and produced what has been described as “the most liberal law on the rights of foreigners in Europe” (Calavita, 2005: 30; Mr. M – CITE representative in the negotiations). It introduced regularisation by means of demonstrating “rootedness” in Spain (“arraigo” in Spanish; CC.OO.’s Mr. J & Mr. M), and established a new programme of regularisations that would benefit migrants that have been resident for over a year, or that have a work permit (Calavita, 2005: 30). All migrants were allowed access to health and education services if included in the municipal “padrón” (ibid), and effectively

expulsions for unauthorised residence or employment were prevented (Garcés-Mascreñas: 2012: 120 & 121).

The minority PP government strongly opposed the Law, leading its negotiator in the process to “lose favour” within the party (Mr. M). It tried to delay the Law being passed in Congress before its first term ended but there was a consensus in favour of the measure (shared by CiU, which had allowed the PP to govern in minority). However, those backing it successfully lobbied for an emergency vote to be taken – becoming the only vote that the 1996-2000 government lost (Mr. M; Mr. J). Before the PP won an absolute majority in the March elections, it announced its intention to repeal the (4/2000) Law, and applied a very rigid application of its provisions – forcing applications to be reviewed after most applicants for regularisation failed (Mr. J).³⁹ The process was criticised as “discretionary” due to big disparities in the success of applications between cities and national groups. While 17 per cent were rejected in Madrid, 71 per cent were turned down in Barcelona (Rius-Sant, 2007: 199). 26 per cent of Moroccans were rejected, compared to 9 per cent of Ecuadorians (Garcés-Mascreñas, 2012: 152).

The Aznar government claimed that the Law as it stood would have a “pull effect” on illegal immigration, encourage human trafficking and violate the Schengen and Tampere agreements (ibid: 121; 5.1.2; Calavita, 2005: 33). Within months a new “Ley de Extranjería” was passed (in August) that made regularisation and family reunification harder, rolled back some right to public provision (but not health and education), and barred documented residents from free legal aid and representation in municipal government processes (Calavita, 2005: 34; Cornelius, 2004: 407). By bringing in seventy-two-hour deportations the Law denied effective judicial protection (Calavita, 2005: 34; Garcés-Mascreñas, 2012: 121). In short, the response was a return from “integration” to “control” (Cornelius, 2004: 407).

According to the ex-CITE spokesperson Mr. M, the government’s hard stance was bolstered by the public reaction to the El Ejido events in January (Mr. M; 1.2.1). The attempt to remove the right to assemble, demonstrate, strike and unionise for irregular migrants was justified by FSII president Azurmendi. He said of the need to replace the 4/2000 law,

With the right to assemble, demonstrate and strike in their hands, ... that immigrant mass ... in [Almeria...] would be a grave factor in social destabilisation and serious conflicts. (Rius-Sant, 2007: 277).

A progressive pro-Catalan (ERC) MP complained in parliament that the government was attempting to turn immigrants into “cheap labour” (ibid). In a repeat of events in the 1980s, the legal provisions were again overturned by the Constitutional Court (after appeals by ACs and the Socialist opposition).

More legal tightening took place in 2002 when the quota system was amended to exclude resident (undocumented) migrants and limit the countries of recruitment (5.2.1). Two laws in 2003 allowed facilitating deporting migrants that commit a crime, and the police accessing data included in the municipal register – access that made it risky for undocumented migrants to access welfare provision (Garcés-Mascreñas, 2012: 121). The short-term nature of visas meant a lapse into irregularity was inevitable⁴⁰ (ibid). Legalisation through the Régimen General was stopped (ibid: 127). The stricter policies were accompanied by a more hostile government discourse towards immigration and the tensions and conflicts introduced in 1.2.1.

Migration management was not purely of a restrictive intent, nevertheless. After twelve undocumented Ecuadorians died in an accident while being transported to work in Lorca, Murcia, in 2001, a local businessman was arrested for illegally employing migrants – a rare act in Spain possibly linked to the media attention given to irregular employment after the road accident (Cornelius, 2004: 415; Rius-Sant, 2007: 237). This was followed by a wave of sackings of migrants (including of 20,000 workers – mainly Ecuadorian – in the Valencia region, Rius-Sant, 2007: 239). Migrants of this nationality held protests and the government responded by organising a regularisation process only for Ecuadorian citizens – a partial “amnesty” in which 20,352 persons qualified (Mr. J – CC.OO. lawyer; Garcés-Mascreñas, 2012: 154 & 155; Cornelius, 2004: 415; EFE, 2005).

The regularisation programme held soon after the church sit-ins in 2001 accepted the idea of legalisation through rootedness yet no administrative procedure was introduced to implement it properly (Cornelius, 2004: 414). A further 223,428 people were regularised that year in another extraordinary process (Mr. M; EFE, 2005). In all, despite the PP government’s official belligerence towards illegal immigration, it regularised over a million migrants by the Aznar administration and the largest irregular immigration took place until then (Ms. B – Barcelona specialist on irregularity; Rius-Sant, 2011: 135). All the same, deportations rose – spiking just before the March 2004 general elections (Ms. R – researcher on border policy).

Continuities and change during Zapatero's first term

Interviewees of different backgrounds highlighted the different policy approach of the Zapatero administration from 2004 to 2008 (Ms. M – construction sector spokesperson, Ms. T – Moncloa advisor, Ms. B – Barcelona-based policy researcher; Mr. M – migrant-labour advisor). The new Minister of Labour and Social Affairs Jesús Caldera Sánchez-Capitán made a series of significant changes. First, Aliens' Law regulations were introduced in 2004 to expand the possibility of individual regularisation through proving “labour” or “social rootedness” – thereby implementing the ideas incorporated in the rejected 4/2000 Law and in the CES report that year (Consejo Económico y Social, 2004; 5.2.1). Demonstrating labour rootedness was not particularly demanding: the migrant needed to show she had lived in Spain for two years and worked for one year in any job – regardless of future employment prospects (Garcés-Mascreñas, 2012: 160). The social route required a present job contract, proof of three-year residence, no criminal record in Spain or in the country of origin, proof of family ties, or a municipal report attesting to the applicant's integration in local society (ibid; Mr. M – ex-CITE). In both cases the migrant was then given a one year renewable permit – limited to a certain work sector and province. Additionally, again encouraged by CES, the Régimen General was reintroduced but this time excluding migrants in Spain (Garcés-Mascreñas, 2012: 127). The Secretary for Emigration and Immigration maintained that together the changes would “bring to light jobs in the black economy” (ibid: 156).

Second, in 2005 the largest “extraordinary” regularisation to date was carried out, benefiting half a million foreigners (Garcés-Mascreñas, 2012: 156: 127). A total of 691,655 applications were filed – confirming the huge dimensions of irregular residence (ibid: 158). The programme was supported by the employers and unions but was subject to hostility from the PP conservatives, now in opposition, and censured by French, Dutch and German premiers and ministers (Tremlett, 2006; Garcés-Mascreñas, 2012: 157). Opponents argued that regularisation “rewarded” illegal entry and thereby stimulated future inflows (ibid). European critics were most concerned that regularised migrants would relocate within the EU. Madrid responded by introducing a system to share information on immigration and asylum measures that might affect other member states (ibid). Caldera became publicly controversial (Ms. T – presidential advisor), and this may have contributed to ending his ministerial career in 2008.

To qualify for papers, migrants were required to prove both social and labour rootedness, but the criteria were not demanding: three years' residence according to the

municipal register or other source, and a job contract. A change from the previous procedure was that it became the employer, not the migrant, who had to request the legalisation (Garcés-Mascreñas, 2012: 157). The sectors where employers were most responsive were domestic service (32 per cent); construction (21); agriculture, livestock and fishing (15); hotel and catering (10); and commerce (5; *ibid*: 158). Regularisation was more likely to be given to men than women (*ibid*), and the largest national groups were Ecuadorians (140,020), Romanians (118,546) and Moroccans (86,806; *ibid*).

The new government also performed a significant (albeit limited) expansion of hiring at source (Ms. T). Alongside the quota scheme, a new “catalogue of hard-to-fill occupations” was introduced (often termed simply as “catalogue”; Mr. M; Ms. T – presidential advisor). The catalogue accelerated legal hiring: as jobs appeared in the catalogue, employers could assume authorisation to enter Spain for the migrant worker (Garcés-Mascreñas, 2012: 128). A total of 178,000 persons would pass through the system in 2007 (Rius-Sant, 2011: 133). Additionally, encouraged by the Economic and Social Council (5.2.1), Between June 2004 and June 2007 a total of 352,307 entries were managed through the reintroduced Régimen General system – a much higher figure than the 14,229 recruited abroad through quotas (*ibid*: 128).

Integration initiatives developed in municipalities and ACs such as Catalonia were generalised across the whole State (FSII integration spokesperson Mr. V). In 2005 an “integration fund” was set up (the Support Fund for the Reception and Integration of Immigrants, SFRII; Ms. T – presidential advisor). According to the presidential advisor interviewed, its objective was to “avoid racist or xenophobic fractures” through financing local authorities to implement multi-cultural training and other measures (Ms. T; Consejo de Ministros, 2007: 145). Its annual allocation was 120 million euros in 2005, raised to 182 million in 2006⁴¹ (Consejo de Ministros, 2007: 143). After 2007 the fund was employed through four-year Strategic Plans for Citizenship and Integration (PECI). For the first year of the 2007-2010 plan, 200 million was budgeted to promote the positive reception of immigration and participation – as well as integration (*ibid*; Ms. T). For 2007-2010, 60 per cent of these funds were apportioned to incorporating migrants in society and 40 per cent to education (*ibid*). These initiatives led the FSII representative to affirm that integration had become a major focus of attention under the Socialists (Mr. V).

Large numbers of migrants continued to arrive in the years after the 2005 “amnesty” but the PSOE government now chose to reduce irregularity by strengthening the procedures

of individual social or labour rootedness (Garcés-Mascreñas, 2012: 160). One calculation has been that hundreds of thousands have benefited from the procedures (ibid: 161).

As well as departures, there were many continuities in policy from the Aznar era. Policy was guided by the notion that immigration was necessary for the economy but otherwise requiring exclusion and control. Tying renewal of permits to continued employment meant authorised residence was precarious and dependent on the migrant preserving the goodwill of her employer (ibid: 158). Despite appealing against the 8/2000 Aliens' Law in opposition, the CC.OO. lawyer interviewed was critical of the four years taken to create a new law, which he described ironically as being "a bit of a contradiction" (Mr. J). Even the expanded hiring at source represented a very minor part of all immigration into Spain, and when the global recession began, the numbers of migrants hired through the "hard-to-fill" vacancy scheme was lowered (see 5.2.2.2; López-Sala & Ferrer-Turrión, 2009). Finally, regular deportations also continued under the PSOE, whose Minister of the Interior was Alfredo Pérez Rubalcaba from 2006 (5.2.2.2).

Less visible and more mixed policies 2008-2011

While José Luis Rodríguez Zapatero campaigned for re-election as premier in March 2008 he emphasised his government's priority of preventing, controlling and returning "illegal immigration"⁴². He was omitting that widespread irregular entry and settlement had taken place under his administration, thereby continuing the gap between discourse and practice of his conservative predecessor. At the same time he was announcing the direction of migratory policy during his second term. That year deportations increased by 25 per cent (Romero, 2010: 38). Most significantly Celestino Corbacho, a Catalan mayor with a reputation for toughness towards immigration, was appointed Minister of Labour and Immigration. One of his first measures was to introduce a controversial "Early Payment of Benefits to Foreigners Program" – also known as the "return policy" – by which a migrant who loses her job is encouraged to return to her country of origin in exchange for receiving the unemployment benefit she would be entitled to receive over the coming period⁴³. Only 5 per cent of potential beneficiaries signed up, and the Programme was widely perceived to have failed (Ms. B; Ms. A – SOS Racisme; Mr. M – ex-CITE; López-Sala & Ferrer-Turrión, 2009).

Another transformation was that legal entry via quotas and catalogues effectively stopped (Mr. G – farmers' union representative). This reverse plus the return policy could be interpreted as adjustments that cohered with the labour approach to immigration in a context

of shrinking labour markets. Nevertheless, in effect, rather than stopping labour migration it strengthened the existing system of irregular entry or stay and individual regularisation through rootedness. A further reverse was that the integration fund introduced by the PSOE (SFRII/PECI) began to suffer yearly cuts. Its budget was reduced from 200 million in 2007 to 67 million euros in 2011⁴⁴ (Ms. T – Moncloa advisor; Mr. V – FSII president). For Catalonia this meant a reduction in its assignment from around 44 million to 15 million (Rius-Sant, 2011: 189). In 2011 Corbacho was replaced as minister by Valeriano Gómez.

In June 2009 a new Aliens Law reform bill was passed (2/2009). It increased the maximum internment of undocumented migrants from forty to sixty days (Rius-Sant, 2011: 133). At the same time it also institutionalised some relatively progressive policies of the Zapatero and Caldera years. The right to family reunification was included – requiring five years’ residence in order to bring parents (ibid). Irregular migrant victims of gender violence were prevented from being deported (ibid: 133 & 134; Ms. A – anti-racist coordinator). In line with criticisms of the previous Law, the right of migrants to meet, demonstrate and strike was reintroduced (Rius-Sant, 2011: 130). The Socialists accepted forty amendments by CiU. As a result ACs were given powers that the Catalan parliament had been denied during the Statute reform process, and AC and municipal authorities were allowed to issue certificates to accredit migrants’ integration in rootedness processes (ibid: 134). The Catalan Generalitat also gained competences to renew work permits (ibid). Rootedness procedures were included in the reformed Law’s regulations approved in April 2011 (Mr. J – CC.OO.). One conservative MP complained that the policy meant “papers for all those that resist”⁴⁵ (Rius-Sant, 2011: 134). As we shall see below this was an exaggerated claim (7.1 and 7.2).

5.2.2.2 Policy responses to irregularity

The evidence thus far suggests that for at least a considerable time period the model of immigration in practice has been one of “restrictive regulations ... that make legal entry difficult” and require people to “enter irregularly or enter as tourists and begin to be irregular when working” leading to irregular residence (Mr. M – ex-CITE spokesperson). This is despite suggestions otherwise by a ministerial advisor and border policy specialist (Ms. T; Ms. R.) Although a full appreciation of how irregularity has evolved and how policy has responded to and encouraged it will be made in the light of all of the interview findings in 7.2 and in the final Conclusion (Chapter Eight), some preliminary observations are made here based on the

literature and information on formal processes obtained from the interviews. I first provide some background on immigrants' main routes of entry, and compare the volume of hiring at source with increases in residence by foreigners; then describe the pattern of "amnesties" that have developed as a policy response; and, finally, look briefly at the practical application of border-control functions of the state, and control of irregular hiring in employment. In this sub-section the account goes beyond looking at stated policy, to focus on practice.

Irregular entry or settlement

Although the policing of Spain's Mediterranean border generally has been the focus of attention in discussion on Spanish border politics, only 5 per cent of immigration into the state is by sea (SOS Racismo, 2007: 15). 15 per cent is by land – mainly across the French border (ibid; Garcés-Mascreñas, 2012: 169). However the bulk of migration enters via airports and is initially authorised (1.3). Surveys and police reports give some indication of the importance of this route. Research in 2000 found that half of the Latin American migrants interviewed said they entered as tourists; and in 2002 a total of 550,000 immigrants from this region flew to Spain, but only 86,000 returned⁴⁶ (Cornelius, 2004: 394). Mainland release of detainees on the African border added to these numbers (1.3).

The irregular nature of most new settlement is revealed by comparing official figures on immigration to the size of at-source recruitment. Quota hiring involved 135,000 migrants between 1993 and 1999, but according to the Ministry of Labour and Social Affairs, 90 per cent of these were already undocumented residents⁴⁷ (Garcés-Mascreñas, 2012: 124 & 148). In contrast, the conservative official Interior Ministry figures showed an increase in the foreign-resident population by 609,000 between 1995 and 2001 (Figure 4.2). Despite "political rhetoric that, after 2000, presented the quota system as the core element in Spain's immigration policy", from 2002 the yearly quota maximum was under 20,000 (Garcés-Mascreñas, 2012: 126). Many jobs did not materialise and much quota employment consisted of re-hiring previous temporary workers rather than new entries (ibid). 352,000 foreign residents were recruited through the Régimen General between 2004 and 2007 (5.2.2.1). But these volumes are dwarfed by the 4,278,000 million foreigners arriving between 2001 and 2009 (Figure 4.3). As well as being a very unrepresentative entry route for migrants, hiring at source contributes very little to promoting "legality" – compared to over a million migrants accepted in "extraordinary regularisations" between 2000 and 2005 (see Table 5.2).

Recurrent and larger amnesties

A key policy response to the high levels of irregularity in Spain has been in-situ regularisation. Until 2005 this chiefly took the form of frequent “extraordinary” processes, which on each occasion would be presented as the last of its kind (Cornelius, 2004; see Table 5.2).

Table 5.2: Spanish regularisation processes & numbers accepted 1985-2011

| Year | Total no. of migrants regularised in individual processes |
|---------|---|
| 1985-6* | 38,000 |
| | 44,000 |
| | <i>Total in year: 82,000</i> |
| 1991 | 110,000 |
| 1996 | 21,000 |
| 2000 | 147,000 |
| 2001* | 36,013 |
| | 20,352 |
| | 223,428 |
| | <i>Total in year = 279,793</i> |
| 2005 | 500,000 |

Source: Marfleet, Philip, 2006: 169/Cornelius, 2004: 412/Garcés-Mascareñas, 2012: 145, 146 & 152/ EFE, 2005.⁴⁸

* In these years more than one process took place. Figures are provided for each process and year – in italics.

Regularisation was treated as a “reactive” policy by an immigration management researcher; and according to such a viewpoint the curve upwards in migrants “amnestied” – illustrated by the figures in the table – would *respond* to the similar-shaped climb in migration to Spain (Ms. B; 4.3.1). Whether this is simply the case, and whether regularisations also promote immigration, shall be examined in relation to the empirical evidence in relation to the primary and secondary findings in chapter nine. For the time being it should be sufficient to indicate

two things. First, the amnesty process is not one that only *legalises*: it also “illegalises”. The normally large numbers of unsuccessful applicants’ have their illegal status confirmed and alerted to; and for the successful, the requisite of regular renewal based on continuing in employment can ease falling back into irregularity for migrants. These have been features of the regularisation processes since the 1980s (Cornelius, 2004: 412). Only 64 per cent of migrants who applied for the 1991 regularisation were “legal” two years later (ibid). In the more open 2005 process, 15 per cent were not able to renew the following year according to the General Council of Spanish Lawyers (SOS Racismo, 2007: 65). For immigration scholar Antonio Izquierdo,

[It is] difficult for the regularized to maintain legal status, because they tend to work in precarious and unstable jobs in sectors ... where irregular contracts and the underground economy are the norm. (Calavita, 2012: 39).

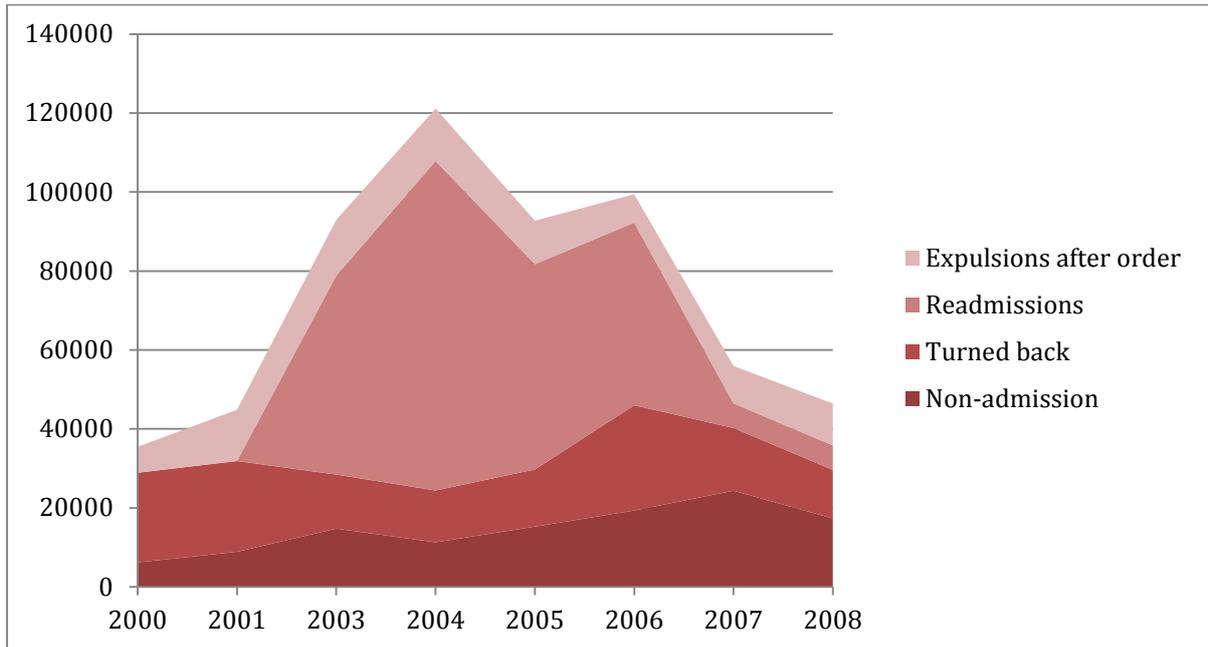
This is a major consideration in such a flexibilised labour market as the Spanish (4.2.1).

The second point is that regularisation processes were a recurrent policy in Spain until 2005 (after which different dynamics operate), and numbers of migrants regularised increased over time. It should also be pointed out that repeated amnesties is not a pattern confined to Iberia. In broadly the same period as discussed here, other southern European states – Italy and Greece – showed a similar recurrence and comparable dimensions of “amnesties”⁴⁹ (Marfleet, 2006: 169). These countries also share with Spain high levels of irregularity – or gaps between “law in the books” and “law in action” (Calavita, 2005: 9; Cornelius, 2004; Baldwin-Edwards, 1998).

Limited acts of deportation

Aided by the European Union practically, logistically and financially (5.1.2), the Spanish state has developed considerable capacity to control its southern border. It has also demonstrated its ability to deploy legal, police and administrative structures against “ilegales” within its territory. As Figure 5.1 shows, it has four ways of acting coercively against irregular migration: non-admission,⁵⁰ turning back at the border (non-admission but including a ban from entry for three years), readmission (of any foreigner entering Spain from a country that has agreed to readmission), and deportations (from Spain’s interior). Annual return figures for each type, and their evolution, are visually represented in Figure 5.1.

Figure 5.1: Numbers & types of returns of irregular migrants 2000-2008



Source: Ministry of the Interior figures in Garcés-Mascreñas, 2012: 168

To gain an indication of how much official tolerance of irregularity there is within Spain it is useful to look at the statistics for deportations and compare them with returns at the border. For the 1986 to 1999 period expulsions from the Spanish interior remained fairly constant at around 4,800 a year (Garcés-Mascreñas, 2012: 162). Figures on annual deportations between 2000 and 2008 show a general rise but varying between 6,579 (in 2000) and 14,104 (in 2003; Figure 5.1). Enforcing deportation orders was therefore probably a frequent and substantial enough punishment to inspire fear among the undocumented (and anxiety among the precariously regularised).

However, if we look at the *percentages* of expulsion orders carried out, prevention of irregular residence seems less systematic. Even in a period coinciding with a policy of “crackdown” on “illegality” by the Aznar administration, between January 2002 and July 2004 28 per cent of total deportation orders were executed (Garcés-Mascreñas, 2012: 165). Under the Socialists in 2006 and 2007 the proportion was 23 per cent and 21 per cent (*ibid*). Nearly three quarters of all expulsion orders therefore had a different effect other than removing migrants. Because they obstruct regularisation,⁵¹ one consequence was to create the figure of “the undeportable, unregularisable deportee” – another immigration paradox (*ibid*). The percentages for deportations performed is particularly low if compared with the proportion of detainees repatriated at the border (92 per cent in 2007; *ibid*: 167). It can be

seen from the graph that in the last two years of the Aznar government and first three years of the Zapatero administration readmissions overshadowed deportations – grown partly due to the proliferation of bilateral migration agreements; 5.1.2. Revealingly, most of the readmitting was of Romanians and Bulgarians at Spain's northern border, leading total readmissions to fall sharply after both nationalities became EU citizens in 2007 (ibid: 169). It is worth signalling that there was little appreciable difference in levels and kinds of control under governments of "the right" and "left".

Few actions against irregular employment

Irregularity is not just in entry and settlement but also in employment, and another way to control immigration is via work inspections inside Spain. Exact figures on "illegal" hiring are not available; however, according to 2002 data from the Institute for Migrations and Social Services (IMSERSO⁵²), 32 per cent of migrants worked without a job contract – a figure rising to 40 per cent for North Africans and 50 per cent for sub-Saharan Africans (Calavita, 2005: 69). It is possible that these percentages increased in the subsequent years due the large size of immigration in the period (see 4.3.1) – at least until the 2005 regularisation (5.2.2.1).

In response to irregular hiring, the 1985 Law⁵³ brought in fines (although not criminal sanctions) for employers hiring irregular migrants (Cornelius, 2004: 408). Later criminal sanctions would be introduced. In 2001 a total of 6,813 infractions of immigration law were detected in the economy. Legal amendments under the second Aznar administration strengthened employer fines and criminal penalties (ibid: 409). Cornelius noted, however, that enforcement depended on general workplace inspections that are not focused on immigration issues and that employers employing "sin papeles" are normally only prosecuted when committing "the most extreme abuses of other labor standards". He suggests that controlling irregular employment is complicated greatly by a culture of tolerance towards the underground economy,⁵⁴ concluding that only "token" enforcement exists in Spain (ibid). Bureaucratic difficulties in prosecuting illegal hiring have been identified (ibid) – but the question arises as to how much political and administrative effort has been made to overcome these.

5.2.3 Two additional features of Spanish policy

Since the beginning of the 2000s small- and medium-sized farmers' "unions" (associations) have played a substantial part in developing a specific model of hiring for the agricultural sector. The Catalan association *Unió de Pagesos* developed a "quota" scheme for at-source hiring, which requires employers to provide migrant workers with housing of a minimum standard, a paid return trip (Mr. G – migration specialist for COAG; Ms. B – Spanish policy researcher). The migrant residence permit is awarded under the employer's name (Ms. T – Moncloa advisor; Ms. B). The system has been adopted across Spain and is managed through the Spain-wide farmers' association COAG (Mr. G). Despite its peculiarities, in many regards this employer-centred model foreshadowed the regular-hiring models developed by the Socialist government (5.2.2.1; Ms. B).

Article thirteen of the 1978 Constitution establishes the right to asylum as a fundamentally protected human right and provides asylum petitioners with "the right to housing, public education, and social assistance" (Cornelius, 2004: 411). Despite such constitutional provisions, Spain has introduced policy and (in particular) practical restrictions on asylum – sometimes criticised by and other times encouraged by the EU. The 1985 Law applied a highly selective approach in practice, and 96 per cent of asylum requests were rejected in 1991 (*ibid*). In 2000 the proportion of refusals fell to 71 per cent (*ibid*); but, according to Amnesty International figures, this rose again to 87 per cent in the first semester of 2006 (2,165 out of 2,504 requests, Ventura, 2007). NGOs protested that migrants entering the country were not usually asked about their refugee status; and Brussels criticised Madrid for being the slowest state at implementing common asylum (and family regroupment) legislation (Amnesty International, 2005; SOS Racismo, 2007).

Although these figures are not complete enough to draw strong conclusions, it can be concluded that asylum policy did not become less restrictive under the Socialists, and possibly became the opposite. To provide a more complete picture of asylum policy under different administrations, however, it must be indicated that in keeping with Spain's irregular model of immigration, often in practice failed asylum applicants find alternative routes to remain in the country. The 1985 Law allowed them three months after rejection to apply for work permits through the "normal procedure" without threat of deportation, and many refugees "simply disappear into the underground economy" (Cornelius, 2004: 411 & 412).

5.3 Catalonia

5.3.1 Catalonia's frustrated attempts at self-management of immigration

One immigration scholar has described the post-1978 political framework as being one of “radical decentralisation” (Calavita, 2005: 29). In this, it is argued, the “actual operation of the immigration system is decentralized to the regions, provinces, and municipalities” (ibid); and autonomous communities (ACs) “in effect have their own immigration micro-policies and procedures” (ibid). This characterisation overstates the decentralisation of migratory policy. Catalonia's immigration powers are very limited in comparison with those of the Spanish state (Mr. M – ex-CITE). A member of government advisory boards in Catalonia and Spain described the former territory's role in relation to immigration as “administrative” and the latter's role as “political” (Mr. R – Catalan policy advisor). For a Barcelona policy researcher, the AC's limitations in immigration management exist although,

Catalonia for many years has been asking to participate more and have more of a voice – not just on issues related to integration but also issues related to the regulation of flows. (Ms. B – Barcelona-based policy researcher).

Devolved competences are restricted to the areas of integration and reception⁵⁵.

On several occasions the Generalitat has been prevented from expanding its migratory policy capacities. In May 2001 President Pujol and his Chief Minister Artur Mas signed the Quebec-Catalonia Agreement on Immigration that aimed to develop a regionally differentiated immigration policy, including powers over selection of immigrants⁵⁶ (4.1.2; Davis: 2009: 432). For Pujol, the Generalitat, “had to be able to run its own immigration policy as immigration is, for Catalonia, a question of being or not being” (Arrighi de Casanova, 2014: 119). Proposals to share powers with Madrid were rejected by the PP government and PSOE opposition (ibid: 433; Arrighi de Casanova, 2014: 119). The bid and response by the two main Spanish parties signalled the pattern for future relations over immigration powers between Barcelona and Madrid.⁵⁷

In 2002 and 2003 the CiU Immigration Secretary opened immigration offices in Poland, Morocco and Colombia (Davis, 2009: 433). The stated intention was to put Catalan businesses requiring labour directly in touch with foreign candidates, and act to facilitate obtaining permits through the Spanish consulates – thereby speeding up the process of

quota hiring (ibid). The other formal aims of the new agencies were to increase immigrants' knowledge of Catalan through providing language classes in the countries of emigration and promote Catalonia's international visibility (Arrighi de Casanova, 2014: 119). The Constitutional Court prevented the Catalan agencies from promoting direct relations between host countries and Catalonia (Davis, 2009: 434). At the same time, central government responded that the Generalitat had invaded its competencies and prevented Spanish embassies from coordinating with them (Arrighi de Casanova, 2014: 119; Davis, 2009: 434). This made the work of Catalan agencies "moot", and led to their closure under the new Tripartite government (Davis, 2009; 4.1.2).

The most ambitious effort to promote Catalan immigration policymaking was during the attempt to radically reform the Catalan Statute of Autonomy. This proposed gaining "greater powers in all [immigration] fields" (as described by Barcelona migrant-labour specialist Mr. M; 4.1.2). In line with the general response in Congress and the courts, most of the relevant articles were overruled; creating frustration for Catalan immigration chiefs, advisors and sections of civil society (Mr. M; Mr. R; Ms. A – SOS Racisme spokeswoman).

5.3.2 The Catalan emphasis on integration and its rationale

Despite the limitations described, the Generalitat has used its existing powers to shape processes of integration of the new immigration in the AC. This has been aided by producing long-term immigration plans (see 5.3.3). It has also been through continuing and developing policies responding to the very large numbers – a third of the local population – born outside Catalonia when autonomy was reintroduced in the late 1970s (4.3). Pujol, the "mentor of Catalan moderate nationalism",⁵⁸ treated this immigration as "Catalonia's primary national problem" and wrote several books on the topic (Kleiner-Liebau, 2009; Santamaría, 2011: 200). He concluded that a Catalan is a person "who lives and works in Catalonia and wants to be it" – specifying that this meant having "knowledge of the language" and "respect for Catalan culture" (ibid: 186-188 & 200). In other words he embraced a *civic*-nationalist approach and rejected the racial and ethno-cultural conceptualisations of Catalan identity that dominated pre-Civil War "catalanisme"⁵⁹ (ibid; Davidson, 1999).

The civic approach was shared by progressive pro-Catalans. The Republican Left of Catalonia (ERC) vice-president of the Tripartite government (2006-2010), Josep-Lluís Carod-

Rovira described how it would later apply to non-Iberian migrants and how the focus contrasted with the dominant cultural policy in Spain:

In Madrid a Castilian-speaking Ecuadorian will always be an immigrant. Here, if he makes the step and speaks Catalan, he will be Catalan, he will be from here, he will be seen like one of us. (Kleiner-Liebau, 2009: 205; 4.1.4.)

Yet at least the dominant strategy in catalanisme – that of the conservative CiU – has not been based on authentic respect for those that have migrated to Catalonia. Pujol characterised the Andalusian as an “anarchic” and “destroyed man” that required assimilation into a superior culture (ibid: 202). There is a similar disrespect towards the “new” minority non-European cultures: Pujol spoke at a party summer-school of his opposition to “mestissatge” – meaning cultural or even racial “miscegenation” (Causa, 2008: 74). Pujol’s successor as CiU leader (Mas) said before 2000 migrants at an election rally “[w]e do not want a multicultural Catalonia ... We want a single people”⁶⁰. As Calavita observed, the Interdepartmental Plan for Immigration 2001-2004 and the CiU administration overseeing it avoid a “politically incorrect” explicit model of “assimilation”, defending maintaining “an equilibrium between social cohesion and diversity”, but its single emphasis on integration as the practical way of achieving balance belies at least a semi-assimilationist approach⁶¹ (2005: 96). Underlying this strategy is a “pro-active” project of “nation-building” (4.1.2; ibid: 95).

Envisaging the new immigration as a bigger “threat”

Success in integrating Spanish migrants and particularly their children has been widely acknowledged. Among other effects it has provided CiU with a large non-Catalan vote, helping its domination of Catalan politics (McRoberts, 2001). Yet there are two reasons why CiU has been pessimistic over the chances of incorporating the new immigration into its national project. Firstly, its previous success was incomplete. Very many socially disadvantaged urban areas remain predominantly Spanish speaking and identification with Catalonia is relatively weak.⁶²

Secondly immigration from outside Spain had lifted the proportion of the population born outside Catalonia to a similar level as in the 1970s (4.4), while crucially being seen by the government as being the most problematic for Catalan national identity. Artur Mas

outlined CiU's general approach: "the new African, Asian, Latin American and Eastern European immigration is at the same time an opportunity for the progress of the country and a threat to its identity" (Kleiner-Liebau, 2009: 201). The Inter-departmental Immigration Plan 2001-2004 identified it as more difficult to integrate than the earlier Spanish immigration: "it is no longer an internal immigration within a state having the same legislation, religious or family affinities" (Govern de la Generalitat, 2001).

Practical reasons were offered for these concerns. In the words of a researcher specialising on immigration and national identity, the new immigration was "more complex, diverse and heterogeneous ... in terms of origin, culture, language, customs, social class, etc." (Kleiner-Liebau, 2009). Yet it is likely that unspoken religious or even ethnic chauvinism also influenced political attitudes. Marta Ferrusola, in a controversial 2001 speech later defended by her President husband, claimed that the new immigration was "an avalanche very different to the emigrations of fifty years ago" because it had "a different religion and culture and wishes for these to be respected" (Santamaría, 2003; 1.2.3). In 2003 the Generalitat introduced an income-tax deduction for any new mother in Catalonia to maintain Catalan demography without "depending on immigration". In 2011 the CiU coalition withdrew the entitlement to those migrants not officially resident for a minimum of five years. The Catalan Minister for Social Welfare justified the limitation in terms of the reductions being "assistance from Catalonia to people from Catalonia".⁶³ The message transmitted was that non-migrant children were desired over migrant children. There are two likely interpretations of these policies and viewpoints: either CiU and those associated with its tradition were more pessimistic about the possibility of integrating non-Spanish children, or they were acting in accordance with undisclosed ethnic or racial prejudice.

5.3.3 Immigration-related institutional structure and policies

Despite the limitations to the Catalan institutions' ability to manage immigration, both government and civil society are making attempts that either are having a substantial impact on society in relation to immigration or demonstrate the political will to have a such influence. The area is institutionally administered through the Generalitat's Secretariat for Immigration (SIM), which was the first "regional" body of this importance when created in 2000 (Calavita, 2005: 95). The Secretariat is a sub-department of the Department of Social Welfare⁶⁴–

perhaps reflecting that (alongside cultural policy) the main vehicles for shaping migration-related processes are social, educational and housing provision.

Due to the centrality of integration policy and its “integral and transversal” nature an Interdepartmental Commission for Immigration was created⁶⁵ (Zapata-Barrero, 2006: 77 & 78; Kleiner-Liebau, 2009: 211). To consult on policy with migrant associations, employers, unions, NGOs and other civil-society groups, an Immigration Advisory Council (CAI) was created (later renamed the Taula de Ciutadania (Citizenship Board, Mr. R – Catalan policy specialist). The Catalan government advisor interviewed describes this as promoting “the pursuit of joint [immigration management] solutions” (Mr. R), but it also was recognised that it provides “a logic of complicity with the administration” (Zapata-Barrero, 2006: 76), which could be interpreted as suggesting critical civil-society organisations are integrated into administration in a corporative way.

The mentioned Immigration Plans establishing “short and long term [policy] horizons” are the 1993-2000 Interdepartmental Immigration Plan⁶⁶ (through which the Interdepartmental Commission was created, Zapata-Barrero, 2006: 76); the 2001-2004 Plan (by which the Advisory Council was set up, *ibid*); and two Citizenship and Immigration Plans for the periods 2005-2008 and 2009-2012 (Mr. R; Department de Treball, Afers Socials i Famílies, 2009). The plans have been credited with developing the integration-centred approach to immigration (or “Catalan way”, Zapata-Barreto, 2006: 78 & 79).

Implemented policies

Despite the obstacles described in 5.3.1, the Generalitat has been able to develop and implement many significant plans and policies. An illustration is that the 2001-2004 Interdepartmental Immigration Plan proposed 133 wide-ranging practical initiatives⁶⁷ (Calavita, 2005: 96 & 97). Some of the competencies included in the 2006 Statute passed by the Catalan Parliament were granted by the Spanish state (4.1.4). The Generalitat was allowed to set quotas for specific labour groups, and it was allowed to co-participate in designing the mechanisms by which these were decided (Ms. T – presidential advisor; Zapata-Barrero, 2012: 226)⁶⁸. The Employment Services of Catalonia began issuing and renewing working visas (but residence permits were still Madrid’s responsibility so cooperation between the two administrations was required, Arrighi de Casanova, 2014: 120). It was acknowledged that Barcelona would have more say on “state decisions in matters of immigration with a special interest for Catalonia”⁶⁹ (Arrighi de Casanova, 2014: 120). A

bilateral governmental commission agreed in 2008 that Catalonia would become the first AC to attain competences in work inspection and authorisation of initial work permits (Zapata-Barrero, 2012: 231).

The 2009 Aliens' Law incorporated some of the changes into law: allowing for use in permit decisions AC or municipal reports on migrants' schooling, residence, housing, social integration and language learning (Aja, Arango & Alonso, 2010). In April 2010, the Tripartite Catalan parliament passed "the Reception Law" ("Llei de Acollida"⁷⁰) that treated the "taking in" of migrants as a "shared responsibility" of the central and autonomous administrations (Ms. A – SOS Racisme). It gave Town Halls responsibility for providing initial rootedness certificates to foreigners accredited as having completed some hours of Catalan-language classes and knowing about Catalan society and labour relations⁷¹ (Aja, Arango & Alonso, 2010; Rius-Sant, 2011: 190). The "Llei de Acollida" was never provided with funding – falling victim to Generalitat austerity measures in 2011 – a failure lamented by the Catalan anti-racist association representative interviewed (Ms. A; Rius-Sant, 2011: 190). At the same time, an expert on immigration policy interviewed said that the Catalan model of regularisation through integration set the template for the "social rootedness" model applied across Spain and formalised in the 2009 Law (Ms. B – irregular migration researcher).

The Barcelona-based Spanish policy specialist and the spokesperson for the Spanish Forum for the Social Integration of Migrants expressed the opinion that government and local authorities in Catalonia had implementing "leading" or "advanced" policies; and Catalan government officials have described their integration policy as "pioneering" (Ms. B; Mr. V – FSII spokesman; Calavita, 2005: 95). Examples of other original and progressive policies developed in the territory include the creation of the post of Commissioner for Immigration and Inter-cultural Dialogue and an "anti-rumours network" – to combat unfounded prejudices towards migrants (Rius-Sant, 2011: 192 & 193). A 2009 Law passed by the "Tripartit"-dominated Catalan parliament compelled Town Halls to devote public or private land to different faiths for centres of worship, although the CiU administration – beginning in 2010 – made the measure more optional (Rius-Sant, 2011).

5.4 Conclusion

This chapter has provided a multi-layered framework for the rest of this study. It has also provided some pointers as to why gaps have emerged such as the high levels of irregular

residence in Catalonia and Spain. With regards to the EU we can conclude the following. The process of developing European Community policy has been slow and uneven. Policy has revolved fundamentally around a combined policy of controlling its southern and eastern borders and allowing (mainly) free circulation within the EU territory. Other policies – such as towards refugees – have developed slowly – particularly regarding implementation – and in accordance with the European focus on “security” and “criminality”. EU member states are directly compelled or indirectly encouraged to turn European priorities and policies into national laws and policies. Mediterranean states such as Spain have been expected to play a particularly active role in border enforcement – initially as the key gatekeeper against “illegal migration”. Before the economic crisis this created a contradiction for Mediterranean countries such as Spain that required large amounts of reserve labour (4.2.1, 4.2.2 & 4.4). Core-periphery differences have been an obstacle in the process of developing communitarisation policies, as have differences between nation states and the Union.

Increasingly border control has been externalised to non-EU neighbours – a development part encouraged by the Zapatero administration. A “shadow” policymaking tier has developed around (and inside) Europe’s geographical borders involving outsourced surveillance, detention and deportation operations. European Union agencies such as Frontex appear to have the task of co-coordinating key processes. As well as border management, EU policy consists of encouraging internal migration within labour strategies aimed at increasing the “competitiveness” of European states. These different developments take place within the wider neoliberal political strategies that have dominated the EU project as a whole. They also provide support for the thesis that the liberalism of democratic states enshrined in constitutions, laws and much “common sense” political ideology can act as a counter to restrictive state tendencies, as shown by the growing European practice of externalising restrictive procedure beyond the boundaries of European legal systems.

There are many conclusions that can be drawn from the survey of Spanish policy development provided. One would be that the style of policy has varied from a mainly top-down unilateralism in the Aznar period to a more consultative and multilateral approach in the first years of the Zapatero presidency; a transformation that, alongside the greater institutional centrality given to immigration by the PSOE, was celebrated by a variety of participants in policy forums interviewed (Mr. V; Ms. M – construction employers; Mr. J – CC.OO.; Mr. M – ex-CITE). A second would be that the “qué” (what) in immigration management has varied less than the “cómo” (how). Despite the discursive shift to an “economic” as opposed to “public order” approach to immigration, there have been big

similarities in policy and outcomes under Right and Left. In both cases there were high levels of immigration and irregularity, seemingly resolved by “amnesties”, despite shared official insistence that migrants “enter legally”; and the right to asylum has been constantly denied in most cases – with refugees normally treated as “economic migrants”.⁷² This substantial continuity suggests that the fundamentals of immigration politics are resistant to changes in government and are not mainly electorally determined – a preliminary response to the third sub-question (1.4).

The preliminary investigation presented in this chapter shows that the de facto immigration model was one of at least a period of irregularity in residence and employment, and frequent and progressively larger reactive regularisations. The combination of large-scale settlement through legal entry and visa overstay, the rarity of workplace inspections, and limited proportion of street arrests and deportations confirm substantial tolerance towards undocumented residence and employment. At the same time the visibility of Mediterranean border control and a constant level of deportations from inside Spain combined with the need for migrants to have future employment to be able to renew permits, will encourage insecurity and dependency on the goodwill of employers – effects that increase the potential exploitation of migrant labour. Legal migrant recruitment schemes are very small compared to the size of immigration and sometimes have involved irregular residents. Furthermore these have proved to be contingent on the economic cycle – as has integration funding. The question of whether irregularity is in nature structural and even intentional shall be developed in Chapter Seven.

The desire for greater policy decentralisation in Catalonia has been met by political inertias and legal prohibitions. This appears less the case when decentralisation aids labour or economic management, and more the case when it is linked to institutional actions associated with exercising nationhood (including the powers demanded in the 2006 Catalan Statute and the abandoned project of having foreign immigration offices, 5.3.1). A partial exception is that in the late 2000s pioneering Catalan policies to regularise through demonstrating rootedness or integration were adopted by the Spanish government. Despite the existing limitations, the Generalitat and Catalan civil society have used the powers available to develop a specific Catalan approach to immigration. This has centred on continuing to promote linguistic and cultural integration as it did for earlier groups of migrants, as well as developing ambitious government plans to incorporate migrants from poorer countries that conservative catalanisme treats as less easy or desirable to assimilate.

More deeply it can be concluded that immigration policy and policymaking is still fundamentally state-determined. The twin policy of European internal mobility and external control has been a major development affecting member states, but even in this area “realist” state dynamics can be detected: a tolerant attitude towards states wishing to slow the liberalisation of borders or re-introduce national controls; and policies best reflecting the labour and demographic interests of core states. As well as the Spanish state developing policy and particularly implementation in accordance with its labour needs, it does so in a way consistent with the linguistic and mythological aspects of Spanish nationalism (in practice promoting Latin American and European immigration and naturalisation over North and Sub-Saharan African). Therefore policy can be understood to be serving nation-craft as well as socio-economic functions – as was posited theoretically in 3.2. This view is reinforced by centralist Spanish concern over Catalonia becoming able to politically manage immigration – and not just instruct Madrid regarding its labour-market needs; and by the importance Catalan policymakers have given to integration as a practice and as a component in a general attempt to gain greater policy powers. It suggests that perceived national interests play an important role alongside – or even over-determining – economic interests in producing migration policies and outcomes (sub-questions 1 & 2).

At the same time, in direct response to the fourth question, the multi-territoriality of policymaking is clearly a factor in the emergence of large policy paradoxes (1.4). The EU has imposed migratory controls on the Spanish state that create problematic administrative difficulties for political representatives, state administrators, employers and (most obviously) migrants in Spain and Catalonia, even if negative effects are cushioned by the existence of a large informal economy. This has led to the development of a general Spanish model based on repeated irregularity and regularisation. Lastly it should be added that multi-level nature of policy is important because it is based on major hierarchies of territorial power: between the core-dominated EU and its periphery, and between state and sub-state (with limited powers despite Spain’s relatively high levels of decentralisation). These are the findings developed from the case study when engaging with policy as formally developed and applied, and when examining irregularity in Spain using secondary sources only. In the following two chapters many processes are re-examined after reporting on observations and analyses given by interview policymaking participants and other close observers.

¹ A possible reason for exaggerating the EU's role is that it is assumed that the process of political union has been an even process, when in reality it has advanced more and faster in economic spheres such as trade, production and investment.

² The founding treaty of the European Economic Community.

³ An example was when the Austrian EU presidency in the 1990s complained that northern European states had taken a disproportionate number of refugees from the wars in Eastern Europe, compared to Spain and other Mediterranean countries (Moraes, 2003: 118).

⁴ The Trevi Group was instrumental in developing the EU's security-focused ("securitised") approach to immigration (Cetti, 2015).

⁵ Policy was decided through "intergovernmentalism" in the meantime (Geddes, 2003: 137).

⁶ Interpol is the EU enforcement agency.

⁷ EU law.

⁸ <http://www.ft.com/cms/s/0/0d1c4b4a-bff5-11df-9628-00144feab49a.html#axzz3wNKFsvOR>

⁹ Some unions have described these practises as "social dumping" and held disputes – sometimes expressed in nationalist terms (Hardy & Fitzgerald, 2008: 6.)

¹⁰ Bolkestein was the EU internal market commissioner responsible for the directive (Monbiot, 2005).

¹¹ In 2004 a central register of asylum-seekers' fingerprints was incorporated into the database (Cetti, 2015.)

¹² In 2013 the European Border Surveillance System (Eurosur) began to provide non-stop surveillance beyond EU's waters, using drones, satellites and cameras (Cetti, 2015.)

¹³ Less-convincingly the same author has treated this as a "de-territorialisation" of border management, rather than a European territorial process (Fernández-Bessa, 2008: 8).

¹⁴ Due to diplomatic disputes between the two countries over Ceuta and Melilla and fishing rights, between 1999 and 2004 Morocco refused to readmit 6420 third-country nationals that had entered Spain through its territory. After a new bilateral trade agreement was reached, repatriations increased greatly (Gracés-Mascareñas, 2012: 170).

¹⁵ See: http://elpais.com/diario/2007/03/03/internacional/1172876419_850215.html [Accessed 12 December 2015]

¹⁶ Handing over an asylum petitioner to her country of persecution.

¹⁷ Eight were shot dead in three incidents between September 2005 and July 2006 (Amnesty International, 2006: 5-9). Not all responsibility has been Moroccan. In 2014, after the period of this study, fifteen African migrants drowned in the sea around Ceuta after "warning shots" were fired by Spanish police, leading to UN concern over Spanish practise. See:

http://www.eldiario.es/desalambre/ONU-explicaciones-Espana-Ceuta-devoluciones_0_323718336.html [accessed 5 January 2016]

¹⁸ See: http://elpais.com/diario/2008/05/18/internacional/1211061602_850215.html [accessed 5 January 2016]

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- ¹⁹ The directive in question was labelled by critics as the “directive of shame” (Pisarelo and Aparicio, 2008: 50). It was backed by most PSOE MEPs. See: http://elpais.com/diario/2008/06/19/internacional/1213826402_850215.html [accessed 5 January 2016]
- ²⁰ Making applications in multiple states to guarantee greater chances of success.
- ²¹ Such policies also have faced a backlash from the rise of mass social movements and left parties in Spain, Greece and other EU states (Stobart, 2015a).
- ²² See: <http://extranjeros.empleo.gob.es/es/ObservatorioPermanenteInmigracion/index.html> [accessed 23 January 2016]
- ²³ Also named the Round Table for Social Dialogue by Mr J.
- ²⁴ The unions were the UGT, CC.OO., Basque Workers’ Solidarity (ELA), and the Galician Trade Union Confederation (CIG; CES, 2011: 9).
- ²⁵ The sector includes cooperatives and companies in which no one party holds a majority of shares (“sociedades laborales”).
- ²⁶ The experts are normally academic researchers chosen by the third-sector representatives (CES, 2011: 9).
- ²⁷ See: http://www.boe.es/diario_boe/txt.php?id=BOE-A-1995-8878 [accessed 12 January 2016]
- ²⁸ See: <http://www.foroinmigracion.es/es/index.htm> [accessed 11 January 2016]
- ²⁹ See: <http://www.foroinmigracion.es/es/MANDATO-FORO-2010-2013/Vocalias/index.htm> [accessed 11 January 2016]
- ³⁰ Ibid.
- ³¹ In 2002 this meant Ecuador, the Dominican Republic, Morocco, Colombia, Poland and Romania (Cornelius, 2004: 406; Garcés-Mascreñas, 2012: 133).
- ³² See: https://www.boe.es/diario_boe/txt.php?id=BOE-A-1996-4138 [accessed 23 January 2016]
- ³³ Aliens’ Law.
- ³⁴ Irregularity was associated by Interior Minister José Barrionuevo with “international delinquency”, *ibid*: 118 & 119)
- ³⁵ See: <http://hj.tribunalconstitucional.es/en/Resolucion/Show/847> [accessed 15 January 2016]
- ³⁶ The legislation in question was known as “the Corcuera law” – after the minister of justice that introduced it.
- ³⁷ An MP described how “you can’t get residence if you don’t have a work permit and you can’t get a work permit if you don’t have residence” (Calavita, 2005: 41).
- ³⁸ In its first year the sectors in which shortages were identified were agriculture (10,000 workers), domestic and other services (5000 and 3500 respectively), and unskilled construction (1100; *ibid*: 29).
- ³⁹ 147,000 applicants were accepted in the first round, 36,000 were added during the review in 2001 (Garcés-Mascreñas, 2012: 152; EFE, 2005).

⁴⁰ Working visas of three-months duration were given to 2,233 domestic-service workers (Garcés-Mascareñas, 2012: 121).

⁴¹ Of the 2006 budget 50 per cent was devoted to educational support, and 40 per cent, to assisting Town Halls (Consejo de Ministros, 2007: 143)

⁴² During an election debate on 3rd March he did this graphically, saying, “[o]ur immigration policy has one principle: only those that can work in accordance with the law can come and stay here. That means firmly fighting against illegal immigration. And this must be done on three fronts. First, people driven by desperation must not leave their countries of origin. Second, border control must stop immigrants that do not have a guaranteed job contract. And, third, people that enter here illegally must be returned to their countries of origin. This is only possible by signing agreements with those countries. We have signed a dozen agreements with countries – basically in sub-Saharan Africa.” (Romero, 2008: 169.)

⁴³ Half of the benefits were paid before departing from Spain; the rest were to be paid via the authorities of the country returned to. Concern over whether the second instalment would get to the end of the administrative chain was a disincentive to joining the programme (particularly in countries with inefficient state bureaucracies).

⁴⁴ The funding would totally disappear after the PP came to office in 2011

⁴⁵ This was adaptation of the term “papeles para todos” – a main slogan of the undocumented migrants’ movement.

⁴⁶ Even assuming that some then left Spain for other EU countries, this is a large influx that helps explain the demographic transformations identified previously (4.3.1).

⁴⁷ Yearly 20,000 and 30,000 benefited from quota hiring in the mentioned period (Garcés-Mascareñas, 2012: 124.)

⁴⁸ Figures vary substantially between the sources. Those that are from official sources, reproduced in more than one study, or broken down according to year are given priority.

⁴⁹ Particularities identified in the Spanish case also have taken place in the other countries. The 2006 Italian regularisation process allowed applications from locally resident migrants (Romero, 2010: 73).

⁵⁰ Non-admission includes rejecting visas before intended travel or refusing entry at the border (Garcés-Mascareñas, 2012: 168.)

⁵¹ Concretely legalisation is hindered by penalising the length of residence required (Garcés-Mascareñas, 2012: 165.)

⁵² In 2004 the institute was renamed the Institute for the Elderly and Social Services (while keeping the initials IMSERSO).

⁵³ Implemented in 1988.

⁵⁴ This largesse is despite the many individual complaints against cases of this that are accrued by the authorities and criticisms from the Ministry of the Interior (Cornelius, 2004: 409).

⁵⁵ These limits also exist in other stateless nations such as Scotland (Arrighi de Casanovas, 2014.)

⁵⁶ The Quebec government has these powers (Davis, 2009: 432.)

⁵⁷ They also foreshadowed relations over other political matters (5.1.4).

⁵⁸ The ex-President of the Generalitat, nonetheless, is widely recognised as a disgraced figure since in 2015 he and his family were investigated and charged with obtaining a personal fortune through government bribery and money laundering. See:

http://politica.elpais.com/politica/2015/12/30/actualidad/1451485396_938484.html [accessed 20 January]; 4.1.4.

⁵⁹ Pujol's successor as leader of CiU, Artur Mas, held a similar view: stating in 2006, "[t]he feeling of belonging is more important than the administrative condition of living in a territory [...] [T]he will to be Catalan is the most decisive element" (Causa, 2008: 75-77.)

⁶⁰ "CiU 'enseña' a 2.000 inmigrantes cómo ejercer el voto el 28-N," *El País*, 21 November 2010.

⁶¹ This view is underscored by a Catalan official interviewed by Calavita, for whom the integration model was justified because "we are who we are and we are not going to change" (Calavita, 2005: 96.)

⁶² Weaker support for independence in such areas was demonstrated most sharply in the September 2015 Catalan elections that were recognised to have represented a plebiscite on independence. In these the strongly pro-Spain Ciutadans (Ciudadanos) party came first in the blue-collar neighbourhoods of Barcelona (Stobart, 2015b.)

⁶³ See: http://elpais.com/diario/2011/06/03/catalunya/1307063238_850215.html [Accessed 19 January 2016]

⁶⁴ Departament de Benestar Social i Famílies in Catalan. Now the Department is called the Department of Work, Social Affairs and Families (Departament de Benestar, Affers Socials i Famílies).

⁶⁵ An inter-departmental role is also played by the Department of the Presidency (Kleiner-Liebau, 2009: 211.)

⁶⁶ This particular plan created the Interdepartmental Commission itself (Zapata-Barrero, 2006: 76.)

⁶⁷ These included provision of cultural facilitators in public services, information on access to accommodation, help for job searches, responses to cultural and social conflicts in schools, promotion of studying diseases associated with immigrants, sponsorship of fairs celebrating culinary and cultural diversity, dissemination of anti-racist material, funding publications addressing the needs of migrant women, and co-development projects with migrants' countries of origin (Calavita, 2005: 96 & 97.)

⁶⁸ Zapata-Barrero felt this gesture was little more than "symbolic" however (2012: 226.)

⁶⁹ This decision that was subjected to a legal appeal by Madrid's right-wing regional president Esperanza Aguirre (Arrighi de Casanova, 2014: 120.)

⁷⁰ "Acollida" can also be translated as "welcoming" and the Catalan term transmits a positive attitude to immigrants. The AC Law is formally named 10/2010.

⁷¹ In August the Law was challenged by the ombudsman in the Constitutional Court (Zapata-Barrero, 2012: 230 & 231.)

⁷² Arguably another example of continuation is that the PP-appointed FSII president Azurmendi defended regularising 600,000 migrants identified as remaining irregular after the Socialists' 2005 Process. This was despite the hostility to regularisations by the People's Party opposition (SOS Racismo, 2008: 118).

Chapter Six

Empirical discoveries: migration policymaking from the inside

The previous chapter introduced many mechanisms by which policy is developed at European, Spanish and Catalan levels, and provided some indications of territorial balances of power. Yet in order to adequately answer research sub-question four on the impact of hierarchies between different territorial levels of policymaking and question six on the subjective ways by which immigration policy and practice are shaped, a more in-depth examination is required of the mechanisms, actors and alliances that dominate “really existing” processes (1.4). Accordingly this chapter presents interview findings that go beyond formalities and appearances to identify the “inner workings” of institutional politics in relation to immigration. This is performed by critically presenting the views of participants firstly on the structural relationships between different territorial institutions (in particular the relative powers of the Spanish state vis-à-vis Europe and Catalonia), and secondly between different political and social actors (government, state administrators, employers, migrants and unions). Some of the (unexpected) discoveries made have implications that require qualifying conclusions in earlier chapters.

6.1 Effective relationships between scales of policymaking

6.1.1 Spain is partially sovereign in relation to Europe

Almost all of the interviewees who had participated in or researched the development of policy appraised the Spanish state as being a much more important actor than the EU (Mr. G, Ms. B, and Mr. R), as did a migrants’ rights activist (Mr. E – from the Catalan migrant network Papers for Everyone – Papers per a Tothom). Within this general view opinions ranged from Spain enjoying “exclusive powers” over entry (the Catalan and Spanish policy consultant Mr. R) to the State sometimes being influenced by Europe – with the EU “not”

being “an important actor” (Ms. B). For the Catalan policy advisor cited, the supremacy of the Spanish state is not coincidental: “[t]he last bastion of the state is the power to manage immigration. ... If it were lost, it would stop being a sovereign state” (Mr. R). Practical grounds exist in support of this state-centred approach: the PSOE government continued with its “very visible” and largescale amnesty in 2005 despite strong criticisms towards the project from the EU (ibid), the large EU funds and logistical support in monitoring and policing Spain’s southern border (for example in response to the 2006 Canarian crisis; 1.2.2) were requested by the Spanish government (Mr. R) and (according to a researcher on border management) the Integrated System of External Surveillance (SIVE: a twenty-four hour single border surveillance system using radar, infra-red and sound sensors) used around all of Spain’s borders was a Spanish initiative¹ (Ms. R). The Papers for Everyone activist light-heartedly shared the view, “there are places where policy across Europe is discussed but there is no European policy” and increasingly, in relation to immigration, “the European Union has become just a piece of paper. There are more and more policies of internal rupture” (Mr. E). The latter view he illustrated in relation to the French transgression of Schengen (5.1.2)

Yet, reviewed as an integrated whole, the literature on Europe points to the EU playing a major role in shaping national immigration policies – through indirect as well as direct means (which, it could be added, would be able to reinforce each other). This influence has also been confirmed by the primary research. As well as issuing directives, occasionally legal action has been taken against member states (interview with the Barcelona-based Spanish policy researcher Ms. B). According to the president of the Forum for the Social Integration of Immigrants (FSII) interviewed, the creation of this particular body and the Permanent Immigration Observatory was inspired by the Council of Europe. Pressure by the EU on Spain to adopt visa requirements for Latin American visitors must have been significant as some Latin American governments protested greatly because of the millions of Civil War refugees they had accepted in the past (Ms. B; 5.1.3). The PSOE in opposition promised to overturn the measure but in office claimed it was prevented from doing so by Europe (Ms. B). Although general regularisation processes did not continue after 2005, legalisation continued using a “case by case” procedure similar to that recommended in an EU report (ibid; see 7.1.1.2).

Evidence that the EU directly administers borders

A notably discordant (and unexpected) view on the EU-State relationship was provided by an associate of the Madrid-based Elcano Royal Institute “think tank”, who had performed research on border policy processes with the Interior Ministry. In sharp contrast with the other accounts, for Ms. R, in the border control field “it is the European Union and the National Police that decide and organise, or that influence policy and what happens at every moment in Spain” (see transcript in appendix – 9.3.2). The chain in command begins with police chiefs in Brussels, followed by the “policía nacional” (5.2.1), and then, the Spanish government. “Policía nacional” from the Interior Ministry attend a large variety of working groups alongside other European police chiefs. There, they “observe what is being applied and develop it [in Spain] also” (Ms. R). Despite developing initiatives such as SIVE locally, policy

is more than anything the product of the work carried out in the work groups in Brussels. It is they that provide the ideas and make sure that all proposals get to the top: to the Ministry, when a bill needs to be created, when a change needs to be made. Therefore everything that is done in border control comes from there. (ibid.)

Most of these Spanish “functionaries” would participate in a meeting with their European colleagues every one to three months, as well as attend conferences and communicate through less-formal networks (ibid). There were EU worked groups on visas, border control, the Schengen Information System (SIS) and to link Frontex “contact points”² (ibid). This strong European-Spanish police relationship began, according to Ms. R, with the transfer of immigration powers from the Interior Ministry (hereafter described as “Interior”) to the Ministry of Labour (hereafter referred to as “Labour”) – after which “those with particular [immigration] responsibility had to go to every formal meeting in Brussels on that subject” (ibid).

Interior’s way of operating of was contrasted with that of other ministries by Ms. R and by the Moncloa (presidential) advisor Ms. T: Interior having an “opaque” (Ms. T) or “totally closed” way of operating (Ms. R), and the Immigration Secretariat being more “open” (ibid). The bypassing of ministerial control of borders presented is a surprising discovery as it is, but even more so bearing in mind who led the department: since 2006 this had been Alfredo Pérez Rubalcaba (2006-2011), who at the time of the interviews was also Deputy

Prime Minister, government spokesperson, and choice for PSOE presidential candidate in the November elections – a combination that led him to be nicknamed “Superminister”. Furthermore, the Moncloa advisor described his Interior Ministry as being powerful in relation to other ministries (Ms. T).

6.1.2 Confirmations and qualifications on the Spanish-AC order

There was consensus that Spanish powers on immigration overshadowed those of the historic nations and other ACs (Mr. R; Ms. B; Ms. A; Mr. L). In 5.3.3 the way the Catalan government has used its limited powers to promote integration was outlined. It is worth remembering that this was mainly through social provision – including income support and child benefit as well as healthcare and schooling – as devolved to Catalonia or Galicia within the State of the Autonomies framework (the Galician union leader Mr. L). At the same time this devolution also was identified by the same union leader as a factor in inter-territorial tension over immigration policy. This was the case, he maintained, because the social-provision responsibilities of ACs (and municipalities) are proportional to the size of the local population, non-native speakers and unemployed, meaning that through immigration policy “the state makes decisions that have a knock-on spending effect on the ACs” (Mr. L). He and other interviewees maintained that strains also emerged because of decisions affecting cultural and linguistic integration (*ibid*; see 7.3 for details).

The frustration created among Catalan civil-society and politicians after the failure to gain considerable more immigration-policy powers through reforming Catalonia’s Statute was reinforced in several interviews (Ms. T; Mr. R; Ms. A; 4.1.2; 5.3.1). Yet the Moncloa advisor felt that the Generalitat had achieved much of its demands in practice through the generalisation across the State of regularisation via social rootedness (Ms. T). She added that the Catalan government had been allowed to determine the legal quotas for foreign hiring in certain occupations and (in theory) volumes for certain hard-to-fill vacancies involving particular professions (*ibid*). Beyond these examples, the interviews confirmed that the Catalan institutions remain in a highly subordinated position in the field of immigration policy.

6.2 Four-tier decision-making and the limits to consensus

Despite scholarship (and the media) frequently highlighting the degree of direct civil-society involvement in immigration matters, the interviews demonstrated the limits to this (5.2.1). Decision-making was built on a hierarchy firstly led by central government (Mr. L). The second policymaking “tier” is the Tripartite Labour Commission where “social dialogue” takes place between of government, the two largest employers’ organisations³, and the UGT and CCOO union federations (Mr. M). Broader consultation involving representation from wider civil society takes place in a third tier: including the monthly meetings of the Economic and Social Council (CES; see 5.2.1). The second and third tiers described normally pool immigration issues together with other economic and social policy matters, and only occasionally treat immigration separately.

The existence of this broad “order of command” was signalled by policy advisors and social agents in Madrid (Mr. J; Ms. T; Ms. M & Ms. R). Zapatero’s advisor described it in particularly sharp terms: “Outside [the social] dialogue there is hardly any power to intervene in politics. All of the other policy spheres are of lower rank.” (Ms. T.) Under Jesús Caldera in Labour, the Tripartite Commission became “permanent” (ibid) and there was an increase in the participation of “social agents” in decision-making processes (Ibid; Ms. M; Ms. B). Yet the Moncloa advisor also provided some qualifications as to its limits. Firstly rather than “social dialogue” being a constitutionally-embedded process, it is “summoned” by central government (Ms. B). Second (perhaps obviously) Commission meeting decisions require the approval of both Congress and Senate (ibid). Arguably the forums that include migrant organisations and NGOs (including the celebrated FSII and Catalan Citizenship and Immigration Board), would be limited to the fourth tier of the general policymaking organisational structure.

Despite the CES, which two interview participants appeared to confuse with the more limited Tripartite “dialogue”, having helped shaped reforms and processes in 2004-2005, evidence was provided by participants of its limited political reach (Mr. V; Ms. B; 5.2.1). One participant – a representative of social-economy enterprises – lamented that its evaluations were sometimes “ignored” (Ms. C); and another that its opinion was requested *after* the government had prepared draft bills – even if the CES’ own report is later passed on to all MPs and its contents sometimes incorporated into proposed amendments (Mr. L). The model of “policymaking by consensus” proclaimed by the Socialist government seems also limited by the internal processes in the Councils and Forums. For instance, although

the CES formally works through its participating organisations reaching “consensus” the representative for the left-wing Galician Trade Union Confederation (CIG) said that his organisations and the Basque ELA federation regularly oppose or abstain on matters but that this is ignored (Mr. L). A radical migrants’ rights activist described consensus policymaking not as being about a genuine devolution of powers but extending responsibility for the outcomes of problematic policies: because it meant “everyone is to blame and [the Socialists] come across as democrats” (Mr. E).

6.3 Key policymaking actors in practice

6.3.1 The state

6.3.1.1 Governments and outside pressure

The evolution of Spanish policy under the 2004-2008 Zapatero government presented in 5.2.2.1 confirmed my expectation that – despite the essential relationship between the state and capitalist social relations – the institutions have considerable autonomy from civil society; and that party politics shapes the decisions of the state or sub-state from both inside and outside government. Another example can be found in some of the progressive policies passed (if not always properly funded) by the “Tripartit” Catalan government, and the receptiveness to recommendations made during civil-society consultation of Immigration Secretary Oriol Amorós i March – as identified by a policy researcher (Ms. B; 4.1.4; 5.3.3). Also identified in the interviews were considerable variations between the policies of different Catalan municipal authorities and associated tensions between certain municipalities and the Generalitat (Mr. V & Ms. B). These discrepancies were linked by the FSII representative with stronger xenophobic and Islamophobic movements present in the AC and the unique electoral success of a racist far-right party (Mr. V; 1.2.3).

The above examples highlight the centrality of governments. However, there were indications that governments attempting progressive programmes will be under enormous pressure from media and opposition not to apply them. It appears that such pressure may have been a factor in the PSOE’s “hard” policy turn in 2008 – after which it produced a Aliens’ Law reform that received parliamentary support from the conservatives and the opposition of United Left (IU) and the Catalan parties CiU and ERC (5.2.2.1; Mr. E).

Suggestions as to the differing relationship between party and electorate in the cases of Right and Left were provided by interview participants. The decision to prioritise expelling undocumented migrants for a short period of time just before the 2004 elections appears to have been an electoral calculation aimed at mobilising enthusiastic backing from right-wing voters (Ms. R). On the other hand, a radical critic of the PSOE government expressed the opinion that when the PSOE hardens the Law or “each time people die in a small boat, [the party] loses its voters” (Mr. E).

6.3.1.2 The political influence of civil servants

The findings on the relationship between the EU and the State pointed to professional state administrators such as police chiefs having an influence on policymaking in Spain (6.1.1). The relation between political representatives and public servants is described in surprisingly simple terms by the Madrid-based researcher of border policy processes. In her field of study “[i]n reality it is not the politicians that design policy” (Ms. R). Elected representatives “might determine priorities” but implementation methods were decided by Deputy Director Generals, police chiefs and other professional “functionaries” (ibid). She backed these assertions with several examples. One was that two State Secretaries for Alien Affairs and Immigration during the Aznar period had no previous background in immigration⁴, meaning their civil-servant Deputy “was the person who organised all immigration policy” (ibid). This official’s role was particularly crucial because at that time all immigration powers were in the same ministry (Interior, ibid). Secondly, at the time of the interviews the Secretary – a vice minister – was also a civil servant. The CC.OO. lawyer said that it was professional civil servants that took the initiative of performing a second regularisation process in 2000 (a process he described as a “resit”) when the PP government’s strict application of rules meant the vast majority of migrants failed to gain permits as a result of the passing of the 4/2000 Law (Mr. J; 5.2.1).

A further illustration is that, in line with the researcher’s view regarding the European and local chain in command in the immigration field introduced in 6.1.2, within Interior “[t]hose in charge of applying and managing policy are the National Police” (ibid). Concretely it is highlighted that civil servants were put in charge of migration sub-directorates created after the 2006 Canarian crisis, and that were given substantial international and geopolitical roles. The new International Police Cooperation Sub-

Directorate was given a diplomatic as well as police liaison function, and was headed by a police superintendent⁵ (ibid). The second body created was the International Relations, Immigration and Alien Affairs Sub-Directorate, which was given the “fundamentally political role” of seeking bilateral agreements with African countries where these were lacking – a task for which a career diplomat was appointed⁶ (ibid). Rubalcaba will no doubt have had a role in guiding the work of the new bodies (which helped establish the government’s Africa Plan, 5.1.2), but it appears that the state administration was also given a directing role and through the Sub-Directorates became organically linked to other state bureaucracies. The major role of the police in policymaking in practice is emphasised by the fact that several police chiefs joined the General Director of Immigration – Marta Rodríguez-Tabuchy Díez – when she transferred from Interior to Labour (Ms. R.) The background provided suggests that unelected administrators play an active role in practical policymaking and maybe have substantial influence on processes.

The idea that functionaries played or at least should play such a function was presented acritically by the border policy expert (ibid); but met with unhesitating disapproval by the presidential advisor interviewed (Ms. T). However, when discussing working relationships between different ministries, the latter analyst complained,

[I]n the Foreign Ministry you find diplomats that always think they are right ... They consider themselves an elite body within the administration and consequently are above a series of more earthly questions! The police deal with earthly problems, but nobody should mess with them! And Labour is there coordinating all of them, in principle. (Ibid.)

This account would seem to suggest at least tacit support for the view of the Interior researcher. Yet the bureaucratically driven view of processes requires some qualification at least. Both consultants recognised that “many changes ... occur in the civil service when the government changes” – specifically among the Deputy Director Generals (the top rank of the state administration, ibid). Concretely, the new government would demote or “horizontally reassign” Deputies not aligned with the party in office and promote civil servants that are politically “close” (Ms. T; Ms. R). This was justified by the border policy analyst: “[T]o coordinate well, sharing political affinity is important”; and was described as “widely accepted” in Spain⁷ (Ibid). Neither participant provided indications of tensions and conflicts caused by such reshuffling.

6.3.2 Civil society

Despite the central role of government and state, there also is substantial participation by civil-society organisations in policy processes. For a Spanish policy researcher interviewed this has meant “the state has not acted as it pleases” (Ms. B). In this sub-section the role of some major agents is examined in some detail.

6.3.2.1 Employers and their part in liberalisation

In formal terms employers have less of a part than unions in the political management of migration, but for some very different interviewees this socio-economic group dominates processes (Ms. A; Ms. T). For the Moncloa policy advisor, “[t]hey are making the law. They are saying what they wish to happen” (Ms. T). As well as being part of official policymaking and consultation processes such as the Tripartite Commission, CES and a range of Forums (5.2.1), employers were identified as benefiting from informal channels of influence (Ibid.) This was not through lobbying, a process described as “European” and not taking place usually in Spain (ibid). According to the ex-CITE representative, the migrant-labour-dependent construction sector has weight within the People’s Party itself (Mr. M). Several non-employer interviewees effectively agreed that before the crisis employers wished for the mass entry of immigrants and that employers put key pressure on the government to liberalise immigration policy (Ms. B; Mr. E; Ms. A). The representative of the anti-racist association believed that the employers’ goal had been to access “cheap labour” (Ms. A).

In Spain different sub-groups of employers have different associations. The Spanish Confederation of Employers’ Organisations (CEO) is dominated by the employers of large firms. SME employers are organised in the Spanish Confederation of Small and Medium-sized Enterprises (CEPyME). “The social economy sector” consisting of cooperatives and firms under relatively collective management is represented by CEPES. According to estimations shared by a representative of the latter association in the Economic and Social Council (CES), the social-economy sector employs 12 per cent of all workers and generates 9-10 per cent of GDP, yet it is not included in second tier of “social dialogue” (Ms. C). These associations group together smaller bodies – including those representing

employers in specific sectors (such as the National Confederation of Construction interviewed).

Farmers

The Spain-wide Coordinating Committee for Agricultural and Livestock Farmers' Organisations (COAG) and Catalan Farmers Union (Unió de Pagesos, UdP both participate in the CES. According to a leading COAG member responsible for Labour and Migration, the COAG participates in the processes to manage hiring at source through the longer-term "quota" system and more recent catalogue of hard-to-fill occupations (Mr. G). Agricultural cooperatives organised in the Spanish Business Confederation of Social Economy (CEPES) sit on Ministry of Agriculture panels (Ms. C). The UdP is the organisation that led the introduction of hiring at source in Spain (ibid). Because the farmers organisations mentioned are not members of the CEOE employers' organisation they are not involved at the centre of policymaking (Mr. G).

Since policy hardened in the crisis period, COAG maintains it has had a more liberal stance than the PSOE government on several matters. The farmers' organisation opposed a government extension of prevention of legal entry for Romanians after accession and opposed stopping hiring at source (according to the COAG representative; see 7.1.1). According to the organisation's representative, the agricultural sector "has a lot of problems hiring labour" and this is "because work in the countryside is hard" and "because the wages paid cannot compete with those paid in the construction sector" (ibid.) For similar reasons migrants would approach agricultural work as a "gateway to other employment" (ibid.)

6.3.2.2 The unexpected and semi-progressive role of the unions

A variety of interviewees indicating how the two main union federations – CC.OO. and the UGT – play a central role in creating immigration procedure (Ms. B, Mr. M; Ms. R). In 5.2.1 the many commissions and forums in which these two federations are represented were detailed. These included all of the social-dialogue and advisory forums. According to the ex-CITE (CCOO) spokesman interviewed, the union movement played a leading role in reforming the Aliens Law after 1999 (Mr. M); and the Barcelona-based Spanish policy researcher interviewed said the "labour rootedness" initiative first was developed by the

Barcelona branch of CC.OO. (Ms. B). For the ex-CITE activist, the two large union federations were given a greater policymaking role in the 2004 reform and out of all of the actors intervening in policymaking have been “those with the most influence” (Mr. M). Likewise, for the Moncloa advisor, “decision-making involves consensus with the unions” (Ms. T).

Unions also have been a partner in applying policy in practice. Their varied role in implementation includes participating in official discussions on foreign-recruitment “quotas” (including co-creating the catalogue of “hard-to-fill” professions), to providing in-depth assistance with the paperwork required for migrants to legalise (through union migrant sectors, such as CITE), and running free language courses (Mr. M; Ms. B; Mr. M; Mr. J). The impact of the unions often has been progressive: extending industrial agreements to those hired outside Spain, opposing the generalised implementation of the EU “blue-card” scheme that favours the skilled over the less-skilled in awarding work visas, and encouraging reforms to be funded and implemented (Ms. T; Ms. A). The CC.OO. immigration-law expert who participated in the research shared the view that “[t]he Spanish unions had always stood out for having positions of defending immigrants’ rights” (Mr. J). Despite having many criticisms of the two large federations’ stance on migration issues, the Papers for Everyone activist said the unions had become more critical towards the Socialist government on migratory matters; and he attributed this to their increased migrant membership (Mr. E). According to its representative in the Economic and Social Council (CES), the Galician CIG has as aims to “encourage regulating [employment], hiring at source”, and “training and ratification of qualifications” in order to incorporate migrant labour into the existing legal and union frameworks (Mr. L).

Limits to union solidarity with migrants were identified in the conversations. A policy expert stated that historically unions had been “reticent” towards immigrants because most had to pass through a period of irregularity (Ms. B). Under general secretary José María Fidalgo (2000-2008), the CC.OO. federation backed tighter restrictions on immigration; Mr. M). Representatives from different unions interviewed coincided that a section of their members were hostile towards “immigration” (Mr. L; Mr J). CC.OO. and the UGT support the policing of irregular entry on the Mediterranean border – despite the humanitarian consequences of controls⁸ (Mr. E). The migrant-network activist implied that the UGT and CC.OO. (and on one occasion the General Confederation of Labour, CGT) had acted in a corporatist manner while mediating in conflicts between migrants and authorities: administering work hiring of protesters and effectively acting as an “employment mafia” (Mr.

E). The Galician CIG federation gives a priority to “reinforcing labour inspection” (according to its representative Mr. L).

The Papers for Everyone activist outlined in plain terms who he felt this affected most: “[t]hey send the foreign worker to their f***ing country or to a detention centre and ‘then we’ll see if this gentleman [the employer] gets fined’”. For the Barcelona activist, “[e]mployers are not scared by [raids]” (Mr. E). The issue of how representative the UGT and CC.OO. are of Spanish workers was raised by several participants, some of whom complained about the exclusion of other unions from the key policymaking processes (Ms. T; Mr. E & Mr. L). It was not named directly but the anarcho-syndicalist CGT union federation has been widely recognised to have played a major part in migrant mobilisations under Aznar and Zapatero, and it probably can be safely assumed that this smaller federation is one of those that interview participants would have deemed necessary for inclusion in migrant-labour policy design.

6.3.2.3 Convergence and divergence between unions and employers

Interviewees identified two kinds of social or political alliances that helped bring about the more liberal migratory policy of the mid-2000s. Firstly good relations between the government and large unions were identified. Second, and perhaps more surprisingly, frequent cooperation between unions and employers was highlighted (in the process to create the first 2000 Aliens’ Law, which “brought together what was being argued by [unions and large employers’ associations]”, Mr. J). The CC.OO. immigration specialist spoken to said that “the unions and employers had reached an agreement that immigration in Spain is a labour issue” and pointed out that irregular hiring had been opposed by the whole of the CES, including employers, hinting that this was because the “social dumping” it produced benefited only certain employers⁹ (Mr. J). A Spanish policy researcher described the unions and employers (using Watts) as “strange bedfellows” (Ms. B; 2.1.1.)

The CC.OO. representative also identified major boundaries to the common ground between employers’ and workers’ organisations. For him, employers are happy to have surplus migrant labour, while unions are concerned about “substitutions” (Mr. J). Differences between the two groups that had emerged during policymaking were identified by different policymaking participants. Employers’ organisations (unsuccessfully) attempted to prevent the extension of general workplace and sectoral agreements (“convenios”) to

migrants hired at source (Ms. T). During the negotiations to draw up the 2009 Law, employers managed to restrict giving migrants' parents the right to family reunification¹⁰ (Mr. J; Mr. R.) The limitations to migrants' mobility introduced in the agricultural system of hiring at source has been denounced by unions (Ms. B).

6.3.2.4 Migrants as shapers of processes

The interviews identified several different ways by which migrants have agency and influence processes. The first was through shaping formal policymaking. This mainly took place from outside the official forums, as migrants' associations are not included in the first three tiers of decision-making identified (6.2). Some organisations are included in consultation – in the FSII and AC forums, but the migrant organisations involved are limited to those perceived as most “representative”: based on numbers of members, votes in internal elections and the formal initiatives the organisation participates in – according to the Forum representative (Mr. V.) In practice this tends to reduce participation to regional and formally constituted organisations and has led to the controversial exclusion of Sub-Saharan organisations (ibid.) The less-formal more-autonomous activist networks, such as Catalonia's Papers for Everyone (Papers per a Tothom), normally intervene in formal policy processes only from the outside¹¹. This network was a key platform in the 2001 migrant protests – including the church sit-ins and hunger strikes that achieved much of their demands (1.2.1; Mr. E.) It also organised less successful cathedral sit-ins in 2004 and occupations in 2005, in which many migrants protested against having their application refused for processing for the “amnesty” that year (Mr. E; see 7.2.4).

According to the Papers for Everyone activist, since 2005 migrants' agency has focused on the more individualised pursuit of obtaining documentation, whether genuine or otherwise (Mr. E). It can also be identified in migrants' response to the changes to labour markets and migratory policy during the crisis (4.2.3; 5.2.2.1). The SOS Racisme representative said that the PSOE government was genuinely surprised by how few migrants chose to return to their countries of origin through the Early Payment of Benefits to Foreigners Program (Ms. A; 5.2.2). One mistake the administration made was to treat all migrants as “economic migrants” and ignore that many had left their countries fleeing political conflict (Ms. A). More fundamentally, however, they were reducing migrants to only being passive recipients of policies. As the Papers for Everyone and CC.OO.

spokespersons pointed out, migrants preferred to make their own “individual plans”, which even in the case of unemployed foreigners included staying in Spain, moving to other EU countries, or “returning home” of their own accord and when this most suited them (Mr. J; Mr. E).

A final example of how migrants’ actions shape immigration procedure is through strategies of labour substitution that have been applied to specific groups of *migrant workers*. The CC.OO. immigration specialist pointed to a policy of replacing Moroccan workers with other groups of workers in the agricultural sector (Mr. J). For the trade unionist, “the Moroccan immigrant, ... the first to reach Spain, ... knew about workplace agreements, unions, wage demands, industrial tribunals”¹² (ibid.) As a result this national group suffered a “process of substitution by a more contingent, newer and more exploitable labour force” – including Eastern European women with little previous experience in this employment sector (ibid). The farmers’ representative recognised that the proportion of Moroccans hired in the sector had fallen and was defensive about rejecting any discrimination toward the North African group¹³. The national groups of agricultural workers that had grown had been Romanians, Columbians and Ecuadorians. The COAG leader thought that it was “the influence of the language that biased hiring Ecuadorians and Colombians” and that both PP and PSOE governments had helped this process by hiring directly in the two countries (Mr. G.) Unlike the CC.OO. lawyer, the farmers’ representative relativized the fall in Moroccan recruitment¹⁴ and attributed it to disagreements over corrupt practices by the Moroccan government in hiring processes (Mr. G).

6.4 Conclusion

Through analysing the findings on the less-formal and more-hidden sides to institutional-political processes the dynamics behind outcomes have been clarified – helping further develop the overall analysis. Two key relationships have been examined: *territorial* and *state-civil-society*. With regards to the territorial, policymakers have confirmed that the central state is broadly sovereign over immigration matters. Minority nations including Catalonia were clarified as being in a highly subordinate position vis-à-vis the state with regards immigration administration. As well as the sources of Catalan irritation over lack of powers identified in the previous chapter, further frustrations were identified – such as the contrast between ACs having little capacity to manage immigration and full responsibility for

organising social provision that must adapt to the demographic and cultural transformations contributed to by immigration.

The revealing observations shared by the border-management researcher suggest that the EU effectively administers Spain's southern border – bypassing Spanish political control when Brussels deems this necessary. This requires nuancing both the extent and evenness of Spanish sovereignty in migratory affairs and greatly strengthens the conclusion from the previous chapter that the core-periphery relationship in the EU identified in financial and economic policy spheres also shapes immigration policies and outcomes (Lapavitsas et al., 2012). Crucially for the purposes of this study, the core-periphery hierarchy must be recognised as a key underlying factor in Iberian irregularity paradoxes. Quite simply before the crisis Spain did not share Europe's lack of interest in recruiting new sources of labour from outside the Union. This issue is developed more in the following chapter.

Evidence is provided of how Spanish police chiefs act as the conduit for EU border policy and play a seemingly disproportionate role in policy practice and even design. Many practical illustrations were shared of how other civil servants play a crucial role in the political as well as administrative management of immigration. This suggests that Spanish immigration policy can be seen as state-inspired as well as government-determined – corresponding with Milliband's characterisations of the state (3.2.3).

At the same time, governments also dominate the order of decision-making more than is suggested by some structuralist commentators (for example Miles or De Gaudemar – Chapter Three). In the period in which Caldera administered immigration the big unions and employers' associations were also given a major role. This probably was aided by the overlap in attitudes between the organisations of labour and capital (a convergence corresponding with contemporary international tendency towards employer-union alliance identified by Watts, 2.1.1).

Other civil society organisations play no more than an advisory role (in lower programme-making tiers such as the CES), although farmers' associations were able to develop their own migrant-recruitment model until the crisis period. The CES has played a significant role in processes at particular conjunctures (such as to produce the 2000/4 Law and 2004 reforms), however it is not generally the main policy-making tool. Last, but not least, migrants shaped processes – albeit mainly through collective and individual actions as opposed to formal participation in policy-consultation processes.

With regards to the research question on subjective power within policymaking (Question 5, 1.4) the following has been demonstrated. To begin with, the key locations of policymaking are Brussels, the government in Madrid and (under the Socialists) Tripartite meetings between ministers, employers and unions. Despite the strong public profile of policymaking forums such as the FSII, CES or the Catalan Citizenship Board these act mainly to give feedback on and help implement decisions rather than design practical policy. The consultation process, therefore, might better be comprehended as a process of exercising Gramscian state hegemony through the “integral state” than a genuine devolution of policy powers. Such hegemony is only constrained by the international influence of the EU, which despite its formal “horizontality” is itself dominated by core states such as Germany. Therefore in simple terms *it is states and the uneven associations between them that are the central actors and relationships through which policy dynamics and contradictions develop*. The identified prominence of senior civil servants in policy design as well as implementation adds extra backing to a state focus on paradoxes and tensions. Such conclusions give empirical support to the theoretical conclusion (in Chapter 3) that policy-related contradictions develop from conflicting tendencies *within* capitalist states (the requirement of breaking and preserving their own borders, the conflict between their long-term and short-term interest in immigration) – helping answering the main research question. In the subsequent chapter the relationship between state centralism and the Catalan national project will be examined with regards to linked findings.

¹ This was developed by several private firms including the Spanish defence technology company Indra.

² “Focal points” offer border support at control points identified as particularly key by Frontex and include personnel from other EU countries.

³ CEOE and CEPYME.

⁴ Enrique Fernández-Miranda and Ignacio González (Ms. R).

⁵ The name of the sub-directorates and details on those appointed as Sub-Directors were unclear from the recording and information presented here benefited from secondary checking of legal and written sources. José Ignacio López-Chicheri Sánchez was the superintendent appointed for the cited post (Ministerio de Administraciones Públicas, 2007.)

⁶ Ángeles Moreno Bau was the diplomat appointed to the mentioned position (ibid).

⁷ The advisor had performed comparative research on Spanish and British policymaking and strongly contrasted the political-administrative cultures of the two states (Ms. R).

⁸ There have been several reports of migrants drowning when their boats have capsized during interception by Civil Guard patrols (either due to traffickers choosing to sink boats, boat collisions or because large waves from patrol boats capsize smaller migrants' vessels; Díaz, 2004; Ceberío-Belaza & Santana, 2012; 1.2.2).

⁹ "The CES sets forth that it is necessary to establish legal mechanisms to rescue people from irregularity to avoid situations of social exclusion and super-exploitation at work and even social dumping between employers." (Mr. J.)

¹⁰ It seems from the secondary sources consulted that the restrictions on reunification described were applied to more recent residents (5.2.2.1).

The Galician trade unionist interviewed suggested that his federation was divided over this matter (Mr. L).

¹¹ This does not mean that they do not negotiate with the authorities, as occurred between Papers for Everyone and the leftist Tripartite government (Ms. B.)

¹² This view is very similar to one shared by a Moroccan union organiser of the strikes in El Ejido in a conversation we had in 2000.

¹³ When I asked who decided which national groups were hired through the quota scheme, the farming representative responded (without prompting regarding specific nationalities) "mind, it's not the case that there has been a decision to not employ Moroccans" (Mr. G).

¹⁴ According to the COAG executive member, Moroccans are still one of the two biggest national groups of migrant farm labourers (Mr. G).

Chapter Seven

Interview findings: underlying dynamics of policy “gaps” and tensions

In Chapter Five ideas were advanced that help identifying the undercurrents of immigration “problems”. For example it was posited that nation-crafting is a factor shaping immigration processes in Catalonia and Spain as well as labour and economic processes. On the other hand it was suggested that Spain has its own policy model of “illegality-amnesty-illegality” – pointing to irregularity being at least structural and possibly intentional. The aim of this chapter is to attempt to re-examine such questions in the light of “insider” insights and information.

To aid this endeavour the chapter begins by examining the evolution of policy *in practice* – in other words beyond the merely formal – focusing on the less-researched period of Socialist government (2004-2011). It examines the degree to which the “labour model of immigration” introduced by the first Zapatero government (2004-2008) was an exception in terms of immigration outcomes – as has been claimed by both supporters and detractors of such measures. Concretely I examine the impact on labour and residential precariousness produced by Caldera’s regularisation and renewal procedures, as well as evaluating the evolving impact of the immigration model in the crisis period, and public interventions to promote integration. Continuities with conservative government immigration outcomes are identified to help draw out the fundamental relationships between state, capital and migrant labour. The reasons for the irregularity-regularisation model of immigration are outlined after presenting the views of privileged insiders on irregularity and political responses. Subsequently I test the theoretical idea developed in Chapter Two and Three that “illegality” is mainly a coincidental consequence of political-economic contradictions, even if one tolerated (within certain dimensions) due to the competitive advantages it provides employers. This re-evaluation is performed using qualitative evidence from representatives and observers of the construction, farming and “social economy” sectors. The final part of this section examines the indications that cultural considerations linked to national projects shape both Spanish and Catalan immigration policy, and feed disagreements over centralisation or decentralisation of policy. At the end of this chapter and in the thesis

Conclusion (8) these findings shall be compared with the theoretical framework advanced in Chapter Five.

7.1 Lived policy in the 2000s

The presidential advisor interviewed suggested that in theory the immigration “model” applied by the Zapatero government was as follows:

If you manage to control the flows that enter irregularly, you can do good management of immigration ... policy, and ... of your labour market; and you do good management of integration policies and avoid the emergence of serious [social] conflicts. (Ms. T)

In the following sub-section this view is implicitly tested against the experience of “policy in action” as presented in the interviews (5.2.2.2). Most attention is given to immigration policies and practice under the Socialists. However, a comparison with the previous period of Popular Party government also is included as part of a short examination of responses by social agents to government policies and procedure.

7.1.1 Limited legal migration routes

In 5.2.1 and 5.2.2.1 several ways were identified by which immigration became treated as *labour* policy in the Zapatero period. According to the Moncloa advisor, the overall transformation could be summarised thus: “[p]reviously immigration was treated as a matter of control. Now, it was treated as labour-related – a substantial change in all ways.” (Ms. T). After immigration management was transferred to the Ministry of Labour and Social Affairs (Labour), this department resisted the attempt by the Interior Ministry (Interior) to have some police stations administer “aliens’ issues”, leading to inter-departmental tensions (Ms. T). Zapatero’s advisor understood that this was because Labour wished to avoid the “symbolic” mistake of re-establishing “the link between immigration and security issues” after a long-term effort to separate them (ibid).

One aspect of the new approach was the strengthening of legal at-source hiring, the sub-types of and development of which were charted in 5.2.2.1. Their limitations relative to processes of irregular entry and / or residence and regularisation have been identified. Criticisms were added by participants in policymaking and stakeholders that positively value legal migration. For a specialist in Spanish migratory policy and irregularity, legal entry remained even more restricted in practice than in theory (Ms. B). The farmers' representative revealed that much recruitment abroad involved repeated hiring of foreigners without the right to long-term residence in Spain (Mr. G). Consequently, figures for foreigners hired at-source necessarily provide inflated measures of "legal migration" (5.2.3). The COAG farmers' leader lamented the ending of quota hiring by the PSOE government in the crisis years. This change negatively affected foreign workers that had performed repeated seasonal work in Spain and COAG "did not agree that those same workers could now not be hired"¹ (Mr. G). The COAG leader suggested that the consequence for the agricultural sector had been a return to "disorganised" local recruitment – often of undocumented migrants – and that this meant that migrants were being hired with less legal and social guarantees² (ibid).

Policy advisors and researchers participating in the present study confirmed that regularisation *in situ* continued to strongly overshadow legal hiring abroad as the route to legality in Spain. According to a presidential advisor, the Zapatero government wished to avoid the return of large-scale irregularity after 2005 (Ms. T). Because of the criticisms received from Europe due to the large 2005 process, the PSOE took EU advice and performed regularisations through more individualised (or molecular) systems: concretely by the individual migrant demonstrating her social or labour rootedness (Mr. G; 5.2.2.1; 5.2.2.3; Ms. B; see 7.2.2). The Papers per a Tothom activist and CIG union representative suggested that legal at-source hiring sometimes incorporated illegal recruitment strategies, and that the authorities tolerated such practices. Concretely, according to the former interviewee, employers incorporated into the official calculations on labour shortages a comparably sized "cushion" of surplus labour ("in case of necessity", Mr. E). The Galician trade-unionist indicated that local employment agencies publish estimates of the number of workers requested through legal at-source hiring by local economic sectors but without facilitating legal contracts for such employment (Mr. L). Thus in practice, he maintained, local labour filled the "quota" – including irregular migrants (ibid).

7.1.2 Employer dependencies encouraged by regularisation rules

If the PSOE's "labour approach" to migration provides more guarantees for the migrant, it also makes the migrant more dependent on the continued goodwill of her employer. The existing regularisation routes require the migrant to have an employment contract (5.2.2.1), which means residential precariousness can become determined by labour precariousness (Ms. B). Furthermore, the at-source hiring model developed in the countryside also ties migrants to their employers (ibid). Some benefits of the scheme for migrants have been outlined already (5.2.3; 7.1.1.) However, there are several ways by which the system becomes paternalistic (or "very paternalistic"; Ms. B). As well as work permits being awarded under the employers' name, because jobs are seasonal if the worker does not retain the goodwill of her employer she may not be hired again (3.2.3; Ms. B.) Furthermore, when employed because the migrant is limited to a particular employer (or at best sector and locality),

"if something unexpected comes up, they make you work more ... [Y]ou don't have the chance of saying 'I'm not carrying on and am working for the next-door neighbour³, because if you do, you lose your work permit'." (Ms. B)

The overall result has been to create "a series of dependencies" (Ms. B.)

7.1.3 The labour approach to policy before and after the crisis

Several civil-society representatives and advisors celebrated the "economic" or "labour" policy model developed by the PSOE – sometimes contrasted with the "politicised" management of the Aznar period (Mr. G; Ms. R; Mr. J; Ms. T & Mr. V). The construction-employers' spokesperson claimed that in the years preceding the interview,

"[t]here has been an advance in the premise or objective of adjusting immigration policies to the needs of the labour market" (Ms. M).

Likewise the CC.OO. representative celebrated that "unions and employers" had "reached an agreement that immigration in Spain is a labour matter" and that the Zapatero

government had furthered such an approach through reactivating the tripartite dialogue (Mr. J; 3.2.1; 6.2).

Yet many interviewees also highlighted shortcomings with the “labour market” approach to migration, which were exposed by the deepening recession. First, the specialist on irregularity and policy estimated that rootedness had ceased to reduce illegality as the crisis advanced. She pointed out that while “[i]n 2007 there were a very large number of people regularised via rootedness” (Ms. B), by 2011 regularisation via rootedness “is still considerable ... but it is increasingly difficult because you need to have a proper job and be paying into the national insurance scheme” (ibid.). As a result, it was identified that a great many migrants had “slipped back into irregularity” (ibid; Mr. E; Mr. M). This “calamity of the Spanish system” prompted attempts to flexibilise the criteria for renewal of regularisation in the 2009 Law (Ms. B). As mentioned in 6.3.2.4, the consensus in the interviews was that the 2008 “Return Policy” failed, and that this may have been aided by an approach that denied the many non-labour motivations encouraging international mobility and settlement. It should be added, however, that for many left-wing activists⁴ – including the SOS Racisme representative interviewed – the measure was less of a real policy and more of an instrumental (or Machiavellian) attempt at encouraging associations between migration and high unemployment and thus deflecting political responsibility for the crisis onto migrants (Ms. A; 5.2.2.1).

The same anti-racist spokeswoman diagnosed that the problems identified originated in a policy approach “centring [the desirability of] people's mobility on the labour issue”, as well as reducing immigration to *migrant labour* and “not having a view of the immigrant as a person” (Ms. A). Similar views were expressed by the other anti-racist activist and a policy researcher (Ms. B & Mr. E). The partially successful attempt to restrict family reunification was cited by the SOS Racisme representative as illustrating the reductionist approach (Ms. A; Mr. J.) For the FSII representative, “[p]olicy assumed that admission and entry of immigrants would be tailored to the state of the labour market”, which meant a positive attitude to immigration during the years of economic expansion (Mr. V.) None of the interviewees identified migratory policy as having greatly changed under the slump and the Barcelona-based policy specialist felt the policies had broadly remained the same (Ms. B.) But the labour focus in policy meant problematizing migration when the labour market contracted, as occurred under the second Zapatero administration (2008-2011; Ms. B). As a result migrants’ security and life chances have been strongly undermined under the crisis (Ms. A; Ms. B; Mr. M; Mr. G).

This effective retreat in migrants' social rights has not been total, however. Despite her hard criticisms towards the general policy approach adopted by the Socialists, the anti-racist spokeswoman also identified some extensions of legal rights. As the FSII spokesperson pointed out, the right to reunification was extended (despite some parents being excluded; Mr. V; 6.3.2.3). Migrant victims of gender violence were given rights⁵ (Ms. A). Attempts by certain Catalan municipalities to prevent the undocumented from accessing services were abandoned in response to public controversy and opposition from other public authorities.

Tensions between social agents and government have been greater under the PP

Another revealing finding from the empirical research was that policymaking was more harmonious during the period of Socialist government (2004-2011) than during the Aznar period, particularly when governing with an absolute majority. Evidence for this view was provided in many interviews, and the most unexpected and intriguing aspect was the finding that tensions between employers and government were discovered to have been greater under a right-wing government which could be expected to have the strongest political and organic links to business leaders of the major Spanish parties⁶. Despite employer views on policy and policymaking being a key component of the interviews, the only unhappiness expressed by employers was in response to the restrictive tendencies of the PP administration. The farmer and construction-employer participants celebrated the virtues of the regularisation that had taken place after 2005 and the importance of "social dialogue" in processes (Ms. M; Mr. G).

Direct participants in the development of policy, as well as observers, consistently described how tensions and conflicts inside and outside of policy processes were sharpest when governments were understood to have acted against economic interests and/or human rights. They cited as examples the PP's conduct during the creation and application of the second Aliens' Law (4/2000), the subsequent reform (8/2000), and a series of "restrictive" policies that encouraged irregular entry, residence and employment in the 2000-2004 period (Mr. M; Mr. J; Mr. V; Ms. B & Mr. E). Similarly, but in a more limited way, frustrations emerged among social agents when the PSOE hardened its policies in 2008. Examples have been provided of disagreements among COAG, the unions and SOS Racisme (7.1.1; 7.1.3).

A last point regarding harmonies and tensions among policymakers is that no significant evidence was obtained from any of the interviews that might suggest that policy tensions or gaps were significantly shaped by different fractions of capital having varying labour needs. The uneven labour requirements of different industrial sectors, and between Catalan and Spanish employers, were rejected by interviewees as a significant source of policy differences.

7.1.4 Questioning of political commitment to integration

The SOS Racisme spokesperson shared the view of policy advisors introduced in 5.2.2.1 that the policy turn towards integration by the first Zapatero administration was a welcome development because it “put onto the political agenda the integration of foreign persons” (Ms. A.) The removal of integration funding was treated as a “retreat ... due to the economic crisis” by the Moncloa advisor (Ms. T; 5.2.2.3.) However, for the anti-racist representative the crisis was an “excuse” for a lack of political commitment to integrating foreigners (Ms. A.) The Papers per a Tothom activist was even more critical – lamenting that “[t]here is no attempt at integrating” (Mr. E). These negative assessments are justified by failures to bring in required regulations that would enable implementing integration policy, leaving policies as as “scraps of paper” (Ms. A).

The interview with the president of the Forum for the Social Integration of Immigrants provided some evidence that even after the unfortunate presidency of Azurmendi, the Forum has an “influence” that is “not determinant or predominant” (Mr. V). This, he suggests, is related to it remaining a “declarative” body whose decisions are non-binding, and due to limited powers and financial and regulatory support (ibid; Mr. Z; Ms. F). The Forum president joked that his informal personal contact with ministers had more influence than the Forum itself, which, based on his other comments, may have included some truth (ibid). The Catalan interviewees said little on the failure by the Generalitat to fund its own big law to promote integration (the Reception Law), but the anti-racist activist calmly cited this as a further retreat in the political attempt to integrate migrants (Ms. A; 5.2.2.1; 5.3.2). She concluded that policymakers had “not [been] working well enough to do real integration of people in all of the ... complexity that human beings have”, and that immigrants had been reduced to being “guest workers” that would return to their countries of origin (Ms. A; 2.2) In

other words, the political failure to promote integration was another product of the labour approach to migration discussed in 7.1.3.

7.2 Participant views on the irregularity paradox

7.2.1 Qualifications on the extent of irregularity

“Insiders” and “outsiders” in political processes provided confirmation of the dimensions of gaps between stated and applied policy on regular immigration to Spain. For the CC.OO. lawyer, “[i]rregularity is a classic aspect of the Spanish immigration model ... and has accompanied us in all of our processes” (Mr. J). Despite government claims and common assumptions to the contrary (Ms. B), it is “a fiction” that a migrant arrives at their workplace with a “contract under [her] arm” (Ibid.) By comparing Interior and municipal “padrón” statistics on migrant residence it was calculated very approximately that around a million persons were undocumented at the end of the Aznar administration in 2004, and that this widespread irregularity had developed in the previous half decade (4.3.1). The interviews also provided insights that enable making a more careful and confident estimation of the extent and evolution of irregularity. For the technician in the CC.OO. legal team, exact figures on irregular residence are “the million-dollar question” (Mr. J). He felt that using figures from the padrón provided insights but warned against using them as accurate demographic measures. This, he argued, was,

because it includes people living here or who lived here and have left. There can be duplications: people that have registered in two different towns. Town Halls are interested in keeping them on the register because it helps them receive grants from the central authorities, etc. People might have returned to their country, or gone to another EU country. People may have died. The register includes people that lived locally but have moved away (including to their countries of origin). (Mr. J)

An alternative measure of irregular residence used by the ex-CITE spokesperson interviewed was based on calculating the difference between the number of migrants registered as paying social-security (national insurance) contributions and those identified in household Active Population Surveys (EPAs; Mr. M & Mr. J). Using such a comparison the

Catalan ex-CITE leader had concluded that authorised entry overtook unauthorised migration in 2005-2006 and that irregularity had shrunk after 2007⁷. As the recession deepened, and hiring at-source effectively ended, fewer people entered legally. It is possible that irregularity has risen again, encouraged by immigrants being unable to renew their residence due to lack of employment⁸ (Mr. M.) The other reason why undocumented residence has decreased is that very many migrants have been regularised.

7.2.2 Rootedness continues the Spanish model

For the Barcelona policy specialist regularisation processes “have been the true immigration policy, as across southern Europe” (Ms. B). In 5.2.2.2 the growing curve of regularisation through such processes was identified for the period up until 2005. After then, individual regularisation via social or labour rootedness was expanded and no more general “amnesties” took place. According to the specialist on irregularity and migratory policy, “arraigo” became the main path to legal residence and employment (Ms. B). She believed official government figures had not been provided,

because if they were to make them public, there would be a big debate about regularisation via rootedness in Spain and particularly in the EU, which I’m not sure would be so good for [the government]. (Ibid.)

For the Barcelona researcher, individual rootedness is a faster, more flexible, more hidden and therefore less controversial system, and politicians and scholars in the core European states were unaware of the large volume of regularisation that had continued since the last general amnesty in 2005 (ibid). Therefore the transformation of policy under the Socialists had not been from illegal to legal immigration, but rather from general to individual regularisation (ibid.) As under the previous government, migrants normally spent a significant period of time in unauthorised residence before performing *in situ* regularisation (ibid). Instead of a process of “regularisation first, integration second”, demonstrating integration became a prerequisite for regularisation (ibid). In other words, only the order of the two steps had changed.

A consequence of the rootedness process, identified by the Papers per a Tothom spokesperson, has been to compel migrant persons to engage in a time-consuming pursuit

of work contracts and other documents, sometimes requiring the purchase of such from a flourishing black market involving lawyers from real or fictitious companies (Mr E.) Thus the rootedness procedure encourages migrants to come into contact with criminal networks such as document forgers – the kind of illegal activity that can reinforce problematic associations between immigration and criminality (ibid). The pursuit of documentation is encouraged by the combination of the requirement to renew residence annually and the lapse into irregularisation suffered by many migrants as a consequence of the crisis.

7.2.3 Structural and tolerated irregularity in construction

The degree of regularisation between 2004 and 2011 appears to have been large, even if it cannot easily be gauged. Some tendencies in the direction of greater legalisation of foreign residence have been identified. Yet other tendencies point in the opposite direction and it appears that irregularity, which became a major social phenomenon in the four years before 2004, has continued to shape immigration in Catalonia and Spain. Tolerance of irregularity among different employers and governments and was identified by several interviewees (Mr. E; Ms. A; Mr. L; Mr. J & Mr. M).

The three union sources concurred that irregularity benefited employers (Mr. J; Mr. L; Mr. M). For the CC.OO. lawyer reduced “legal status conditions [migrants’] labour status” (Mr. J). As well as undermining migrants’ bargaining power through linking the right to legal residence with having obtained and kept employment (7.1.2), irregular migrants were seen as being particularly vulnerable. In the words of the SOS Racisme spokesperson,

an undocumented person is an invisible person ... you have incredible vulnerability. You are going to be willing to work ... without a contract. (Ms. A.)

For the ex-CITE leader, when labour is “irregular, low-waged [and precarious]” it feeds “economic growth” for particular business sectors (Mr. M). This meant that governments did “not dare” act against such (Ms. A). The two interviewees that have represented CC.OO. in policy negotiations cited tolerance towards irregular employment in the building trade (Mr. J; Mr. M). For the CITE activist,

construction employers are a powerful group ... with presence in some parties – in particular the Popular Party ... Could we say that the PP looked the other way when so much irregular immigration was arriving because they knew it was good for the construction employer? (Mr M).

The trade-unionists' view of the construction industry was given much unintentional support by the National Confederation of Construction (CNC) spokesperson themselves. To begin with, in response to a question about whether migrant workers were recruited locally (as opposed to through foreign hiring schemes), the employers' representative became visibly uncomfortable, pointing to report figures showing total (official) employment of migrants and employment through quota hiring and recommending consulting editions of the Boletín Oficial del Estado (BEO, Hansard) to obtain an "idea of demand" from published catalogues of hard-to-fill occupation (Ms. M). Yet the figures signposted give several indications that large-scale hiring of irregular migrants is taking place in the sector. First, the figures for hiring of migrant construction workers were much lower than those estimated using EPA figures by the Ministry of Employment and Social Security's Permanent Immigration Observatory (OPI). These calculated that 655,000 migrants worked in construction in 2007 – almost double the 391,000 recognised as working in the sector by the Ministry of Labour and Immigration⁹ (see Figure 2.7). The gap between the two strongly confirms very widespread irregular hiring.

Table 7.1: Evolution of employment of foreign workers in construction

| Year | No. of foreigners working in construction |
|------|---|
| 2003 | 140,000 |
| 2007 | 391,000 |
| 2011 | 174,000 |

Source: Ministry of Labour and Immigration figures provided in interview with Ms. M

Reinforcing this view is the evidence that the hiring of migrants at source makes up only a small proportion of total migrant recruitment. The published catalogues in the pre-crisis period include the requirement for "builders" (albañiles) across Spain¹⁰, but the same professional group had stopped being officially requested by the four Catalan provinces by

2007 and by all Spanish provinces before the end of 2008 (Ministerio de Trabajo y Asuntos Sociales, 2007: 44,160-44,164; 2008: 42,022-42,028).

Likewise, despite the fact that construction includes many large multinationals with the ability to participate in quota hiring, the figures for employment through the scheme presented by the CNC spokesperson were very low (see table 7.2): the quota of 5,234 migrants hired in 2007 is a tiny fraction of even the greatly underestimated figures for migrant employment shared by the construction representative (391,000 migrants; Table 7.1). All of the indications point to the *in situ* hiring of very large numbers of irregular (as well as regular) migrants.

Table 7.2: Evolution of foreign hiring through the quota scheme

| Year | No. of migrants hired through quota scheme |
|------|--|
| 2006 | 4,868 |
| 2007 | 5,234 |
| 2008 | 1,818 |
| 2009 | 6 |

Source: Interview with Ms. M.

When I asked for confirmation that most migrant contracting must have been performed locally, the spokeswoman responded sharply: “[o]nly those with residence permits are employed” (Ms. M). Considering the huge number of migrant labourers employed in the sector before 2008 (2.3.1.2), this is highly unconvincing, and the mechanical tone employed by the interview participant suggested she was giving a “public-relations” response.

Similarly when I asked directly whether employment in construction was always legal, the CNC representative gave an even more “political” response, stating abruptly that “[n]on compliance means unfair competition. That is the way we encourage employers to abide by the law” (Ms. M). Then the construction association representative admitted that her sector “hadn’t adopted any specific measures” to reduce irregular employment, adding that she thought that the responsibility for adopting measures was limited to the government (*ibid*). There are two observations that can be made here. First, according to its spokesperson, the CNC did nothing practical to reduce what was clearly very widespread illegal activity by its members. Secondly, the disapproval exhibited towards such a practice was limited to

avoiding unfair competitive disadvantages for any firms that abide by the law. No legal or ethical considerations were added to this assessment. Assuming that the views shared by the CNC spokesperson are representative of employers in the sector, it appears that there is little will to avoid irregular hiring, and that it has been a structural feature of the industry.

7.2.4 Doubts that irregularity is intentional

Although recognising the structural nature of irregularity in Spain seems uncontroversial, participants shared different views as to whether irregularity was an intentional policy. The Barcelona-based ex-representative of CC.OO. felt that it was difficult to establish “a cause-effect relationship” between the economic benefit of illegality for certain employers and the lack of effective control against irregular migration (Mr. M). The 2005 process, the expansion of individualised regularisation, and the attempt to flexibilise renewal requirements, were signalled by the Barcelona-based irregularity specialist as demonstrating that the Socialists wished to tackle irregularity (Ms. B). However, the migrant-network activist in the same city was sceptical that the government had this intention (Mr. E). Rather than being part of a long-term political regularisation strategy, the 2005 regularisation process was a response to migrant mobilisations and the increased visibility of undocumented persons (ibid.) The Socialists did not mind that 400,000 migrants failed to obtain regularisation, most of whom were not allowed to have their application considered (ibid). Commenting on the 2009 Aliens’ Law reforms, the Papers per a Tothom activist expressed the view that,

[o]ur analysis is not so much that the aim of the Aliens’ Law is to close the border but to make immigrant labour feel frightened and right-less: fearful of expulsion and police persecution ... [That way t]hey are forced to accept worse labour conditions and they can’t protest ... That is the real objective of the law. (Ibid.)

Two policy experts coincided that irregularity benefited some employers, yet they dismissed the notion that it was a deliberate immigration policy in the interests of employers (Ms. R; Ms. B). The Barcelona-based policy researcher pointed to repeated occasions on which employers had playing a proactive role in promoting legalisation (Ms. B). On top of the examples already shared, the Papers per a Tothom activist shared the anecdote that construction employers had lobbied for regularisation in the 1990s – an intriguing comment

bearing in mind the signs of tolerance towards irregularity in construction provided in the previous sub-section – (5.2.2.1; 5.2.3; 6.2.3.1; Mr. E). A further instance of employer support for legalisation cited by the irregularity specialist is of employers of domestic labour that lobbied in support of and actively collaborated in the 2005 “amnesty”. These actions were explained in relation for the desire of this particularly group of employers to encourage “fidelity” among employees (Ms. B). Other employers interviewed for her own research saw the 2005 regularisation “as something positive, as a recognition of their workers, and the legitimacy of being able to employ workers who until then were not recognised legally” (ibid.) The same regularisation process was described as a “success” by the construction representative – despite her limited criticisms of employers that hire illegally (Ms. M).

The freeing of migrants arrested on Spain’s borders was confirmed as continuing in 2011 and having been of a large magnitude. The Papers per a Tothom activist confirmed that hundreds of thousands of African ex-detainees had been released on the peninsula (Mr. E; 5.2.2.2). When questioned as to whether such practice was a deliberate policy, several interviewees provided indications otherwise. The specialist on irregular migration highlighted that there had been a large decline in releases of migrants whose country of origin had signed a bilateral agreement with Spain, and that thanks to an early agreement with Morocco, repatriations of citizens from this country had been performed systematically (Ms. B). It appears that ambassadors from poorer countries had been brought in to identify the national origin of migrants without identification, and that release occurred when representatives failed to recognise migrants as fellow nationals. According to the Barcelona activist, this happened to “a boatload” of Bangladeshi migrants (Mr. E).

Both the Barcelona-based ex-CITE representative and Madrid border-policy specialist cited statutory and practical limits as compulsion for the authorities to free undocumented migrants from detention centres: release on the mainland took place if migrants had been held for the maximum time allowed, or if there was a lack of internment capacity (Mr. M; Ms. R). For the Madrid researcher,

if you didn’t demonstrate that [migrants] had come through a country with which you had an admission agreement, you could not send them anywhere, and you did not have centres to detain them in either. You had to put them on the street. ... [I]f in 48 hours you couldn’t show that this person was from a certain country you could not detain them further. (Ms. R.)

A second reason offered to doubt that the porousness of Spain's African border was intentional was that (Sub-Saharan) immigration along this route "numerically speaking did not reach even 5 per cent of the [total] immigration received" (Mr. M). This leaves the question as to whether the much larger entry of Latin Americans through airports was being treated differently (5.2.2.2). The border-policy researcher was defensive about this issue, maintaining, "the controls currently being carried out in airports of international flights direct to Spain are the most exhaustive around", citing as positive examples the routes from Brazil and other Latin American countries (Ms. R). Somewhat contradictorily she attempted to make the case that immigration through airports and subsequent overstay was uncontrollable because,

[y]ou don't have control measures [available]. You know that this person entered on this date, but you don't know where they are [now]. You would have to find police officers to search for the person. You know they had a 3-month visa but you hadn't recorded when they entered and when the visa expired. (Ms. R)

The scholar did not volunteer ideas as to why control could not take the form of workplace inspection. She did, however, identify the existence of a cultural tolerance of unauthorised employment in Spain and how this was encouraged by limitations of an administrative or bureaucratic nature:

There is no culture or morality that prevents hiring someone irregularly. It is ... [seen as] the most normal thing. Southern Europe is very different in this regard than most northern European countries ... [In the former region] everybody has an irregular migrant hired. Well, maybe not everybody but ... Requirements [to regularise] have changed a lot compared to a few years ago. Now it's very difficult [to qualify] for someone looking after children or cleaning houses. Before [the migrant] could add together work hours in different jobs to be able to claim social security. Now, you are required to have a single employer, with a certain amount of earnings ... Most people are not able to comply with the complicated law but need someone to pick up their children from school. Most would never ask if the migrant is documented. This attitude is pervasive. (Ms. R.)

It also occurs in many spheres of economic activity:

If someone comes to mend your blind, for instance, they ask whether you want an invoice or not, whether you want to include VAT or not. This is not a feature only of immigration. It exists in all fields. (Ibid.)

According to the specialist in border management, in this field “permissiveness” has been applied to the control and expulsion of irregular migration (Ms. R; 5.2.2.2). For the researcher, “[i]t has never been a priority to expel people located inside the territory” and the National Police had “never had clear guidelines on looking for migrants, identifying them and deporting them” – beyond a limited period before the 2004 elections, and later when (for a time) Madrid police stations were instructed to perform a minimum quota of arrests of undocumented persons (Ms. R; 3.2.2.1). Other interviewees would probably add further qualifications. Based on his experience in migrant networks, the Papers per a Tothom activist signalled that expulsions of migrants were constant and had increased during the crisis years (Mr. E).

The rationale behind the limits to control provided by the Elcano Royal Institute associate was that it is expensive and time-consuming:

Economically it doesn't make sense to chase people because ... you end up ... starting up an expulsion procedure. The person is not detained. They are in the street. When you begin a procedure you have to look for the person in the street, try and locate them (Ms. R.)

Citing her own research interviews, the Madrid scholar maintained that the police only act if they suspect the migrant is engaged in criminal activity. If this was not their suspicion, they would protest,

[I]ook, we have limited resources and our main role is to arrest criminals and not irregular immigrants. If I have to decide on where to put resources, I will put it into the first thing and not the other. (Ibid.)

As well as complaining that it would be preferable if the Ministry of Labour did workplace inspections, revealingly (and ironically), police also justified migrants performing irregular employment. According to the specialist in immigration control, police officers would reason,

“[[i]f the only thing they are doing is working illegally then we all earn a bit on the side on something” (ibid.) If this view is in any way representative of those public servants whose duty is to enforce the law, it would underline graphically the degree of normalisation of irregularity in Spanish society.

Yet the specialist on irregularity suggested that governments had an opposing interest in actively opposing irregularity. For the Barcelona-based scholar, illegal residence acts “against the logic of governance” by reducing the social-security contributions sustaining the welfare state, concealing real demographics (for planning purposes), and limiting state control over the inhabitants of a territory (Ms. B).

7.3 Hidden national considerations in immigration policy

It was expected that a source of tensions between Catalan and Spanish policymakers would have been differences in migrant-labour and other economic needs between the two territories, and many interviewees in both Madrid and Barcelona were asked about this matter. The one participant that signalled varying migrant-labour needs as a source of tension provided no concrete details on such (Mr. R – the Catalan and Spanish policy advisor). On the other hand, unexpected opinions were shared by the same interviewee and a variety of others on the way immigration policy is shaped by *and shaped* nation-building projects – views that are presented below in some detail.

7.3.1 The cultural preferences of Spanish elites

I have identified the disadvantaging of Moroccan and other North African migration in agricultural hiring and quota hiring, and this likely has been a factor in the greater levels of underground hiring, rejections during “amnesties” and deportation suffered by these groups (4.3.1.2; 5.1.3; 5.2.2.1; 5.2.2.2; 6.2.3.4). As well as attributing discrimination by business and political elites to the perception of Moroccans as being “veteran labour”, the CC.OO. lawyer says the group is perceived as having a different in culture, language and religion. The idea had little basis as the Moroccan had,

a lot more in common with the Spanish worker than us Spaniards wish to recognise: the same idiosyncrasies, the same farming culture in certain segments, the same resistance to weather conditions, which are very similar, similar gastronomy even, and living only fourteen kilometres away. They represent our natural immigrant worker. (Mr. J)

European and Latin American migration is often treated as being culturally closer and received more favourably¹¹. For instance, as well as the cases presented in earlier chapters, the farmers' representative pointed out that both PP and PSOE governments had favoured hiring for the countryside from Latin America, performing direct hiring in Colombia and Ecuador (Mr. G). The representative of social enterprises in the CES compared northern Europeans with other migrant sub-groups that "society does not understand", suggesting that Europeans are (universally) "skilled" and that the other group had suffered from "very unequal educational systems" – encouraging "cultural collisions" in the new country (Ms. C). The view suggests that immigration is problematized or normalized according to the speaker's identification with or rejection of particular regional groups.

7.3.2 Cultural components in the decentralisation debate

The interview with a Catalan policy advisor and specialist on immigration in stateless nations offered some insights as to what is driving the desire for Catalan immigration powers (Mr. R; 5.3.1). In the first place he said it was about the "principle of being able to decide for oneself" – or gaining the sovereignty he identified as being monopolised by the Spanish state (ibid; 6.1.1). This view could be interpreted as saying that having an immigration policy was a symbolic ingredient in enjoying national statehood. The advisor also identified *specific* motivations why Catalan policymakers wished to devolve immigration powers. Despite the fact that much Catalan policy towards migrants was characterised by being inclusive and progressive – even by Generalitat critics such as the FSII president (Mr. V; see 7.3.3), the motivations cited did *not* include liberalising entry. The Catalan advisor predicted that if policymaking were performed by the Generalitat, "flow management would not be substantially different. Catalonia would not necessarily be more open; it would likely apply restrictive criteria like Spain" (Mr. R). Rather, different immigration "profiles" would be

adopted to those currently applied, taking into account “nationality”, “language” and “origin” (Mr. R).

Concretely he advocated overturning the criteria of knowing the Spanish language applied in official immigration processes – such as naturalisation. He believed that the “positive discrimination” enjoyed by Latin American migrants was not of benefit to Catalonia:

The fact that Latin Americans speak the Castilian language is decisive for the State ... I don't know to what extent Catalonia is interested in promoting having immigrants that speak Castilian. (Mr. R).

There is an overlap here with the approach to immigration adopted in the Galician AC and celebrated by the representative of the left-nationalist union federation (Mr. L). This deliberately favoured immigration by the children and grandchildren of the very many persons that had emigrated abroad from Galicia in the twentieth century (ibid). According to the trade unionist, the pro-Galician-progressive government at the time used its powers in education to encourage migration through legal study (and overstay; ibid). It also applied a preference for Portuguese-speaking migration due to the closeness between the language and Galician. The (crude) logic of the Galician government was paraphrased by the interviewee as being,

[i]f there is a lack of labour, I'd prefer to bring those from Uruguay, Colombia, Mexico, ... than those from ... Ghana ... And even from Africa I'd prefer Mozambicans ... Why? Because of a preference for the common language and roots. (Mr. L.)

The preference was for those “more from home ... we could say” – a group from which he excluded Moroccans and Algerians. His justification for applying such linguistic and cultural bias was that it would facilitate attaining social integration, cohesiveness, social cooperation and equality¹² (ibid.)

7.3.3 Integration and nation building

As well as resistance to Spanish cultural preferences being voiced by minority-national policy consultants, interviews in Madrid and Barcelona confirmed that unease exists in Spanish policymaking circles about Catalonia being able to use immigration powers to promote Catalan linguistic and cultural assimilation. Despite the PSOE-appointed FSII president praising the advanced nature of many Catalan integration initiatives, he spoke in hostile terms about the Catalan policy of rootedness, which he said “masked” a policy to “force immigrants to study in the Catalan language” and “socialise [them] in Catalan” (Mr. V). The interviewee offered no criticisms of Spanish policies that seek equivalent socialisation processes in Castilian. The view also would appear broadly to be that of the government. As well as instances already cited in which the Madrid government resisted Catalonia having powers and policies on immigration that might be used to promote Catalan nationhood, allowing knowledge of Catalan to be included in the rootedness procedure generalised across the State was “grudgingly awarded” according to an interviewee that had participated in Spain-wide policy consultation (Mr. R; 5.2.2.1; 5.3). An even more centralist approach to immigration policy was exhibited by the construction-employers’ spokeswoman in Madrid, who expressed the view that immigration policy should be “State policy” rather than devolved (Ms. M.)

In Barcelona some interviewees provided a more nuanced and non-aggressive critique of the Catalan institutions’ approach to integration. The policy researcher from Barcelona highlighted that the institutional “circuit” created to manage rootedness had turned from being a voluntary provision to “an obligation” that attempted “at heart” to make “residence ... depend on ... whether you speak Catalan or not”¹³ (Ms. B). The Papers per a Tothom activist denounced the fact that the official interview for migrants to gain legal residence is held in Catalan even in cities and towns in which migrants speak Castilian, leading to many applicants being turned down (Mr. E). He implied that this procedure was based on a narrow vision of rootedness, saying that non-Catalan speakers might be “a member of fifty charities, an active member of the Socialist Party, etcetera” but still be rejected by the process (ibid.) He suggested that in Catalonia (and to a lesser extent in Spain) Muslim migrants had “to put up with s**t mosques” – referring to the converted buildings used for all mosques in Catalonia as opposed to the purposely built buildings with minarets such as Madrid’s M-30 mosque (Mr. E). This, he maintained, was about “depriving

people that come with a cultural background the right to that background”, and that Generalitat’s policy was one of “assimilation”, not “integration” (Mr. E).

The approach described was not exclusive to Catalonia. For the SOS Racisme representative, in Catalonia and Spain integration was approached in a one-directional way, in which immigrants always had the responsibility for their integration and the recipient society never asked itself “are we willing to integrate?”¹⁴ (Ms. A). The anti-racist offered the example of migrants being excluded from enjoying the key “political right” of voting – a demand removed from Catalonia’s National Agreement for Immigration on the request of the governing CiU coalition (ibid).

7.4 Conclusion

This chapter has built on the analysis of the evolution of policy and policymaking and its impacts provided in Chapters Four and Five, which among other aspects identified the permeability of Spanish borders, limitations to deportations – however intimidating, and the absence of inspections of illegal employment. The interview findings presented in this chapter extended the portrait. Firstly they showed that in practice there has been much continuity in policy under the Aznar and Zapatero governments – despite the many formal (and sometimes substantial) changes identified in 5.2.2 and the start of this chapter. Under Caldera’s ministerial direction far more migrants became regularised – after 2005 exclusively through individual rootedness. However, they effectively remained precarious as residents – due to the requirement to annually renew residence – and vulnerable in employment – because their stay required them keeping their jobs – of a mainly insecure kind – raising the potential for exploitation (4.2). This means that very many regular migrants shared with “irregulars” being a conditioned and more-malleable workforce. Indeed because during the period studied irregular residents generally could access social provision, regularisation meant limited social advance. The still-precarious position of migrants was underlined when a large proportion slipped back into irregularity after losing their jobs after 2007.

These discoveries might seem to give credence to a direct and dramatic Spanish-language account of migrant-labour policy which concludes that both PP and PSOE governments,

have applied the Aliens Law to guarantee there are an important number of undocumented migrants to feed the underground economy, as well as having *documented* immigrants to be exploited legally. Through sufficiently threatening legislation, it is aimed for [migrants'] labour militancy to tend towards nothing and their submission to the infinite. Migratory policy is not, therefore, a policy of border closure but uses borders to generate different degrees of vulnerability, in a vicious circle of legal insecurity and labour precariousness (Romero, 2008: 167).

This description would be a good summary of the recent evolution of policy in Spain except that assumption of Machiavellian intentions is contradicted by other interview findings. Concretely different examples were given in which Spanish employers promoted the legalisation of migrants (including through employers lobbying and participating voluntarily in regularisation programmes). Furthermore corporate representatives effectively reported having a considerably less harmonious relationship with the more restrictive Popular Party government than its more liberal successor. (Continued good employer-government relations after the PSOE hardened its migratory policy under crisis might be explained by the fall in demand by businesses for migrant labour. Likewise, interviewees signalled the real difficulties that the authorities encounter when acting against irregular entry and stay (such as monitoring overstay by those entering the peninsula as tourists) and how border control was enforced through migratory agreements with non-EU states. None of these findings support a simple instrumental view (as is also identified in some of the structuralist writing reviewed in 2.2.3.2). Therefore the theoretical conclusion in 2.2.2 that the irregularity paradox is structural but not deliberate can be treated as fundamentally proven in the Catalan/Spanish case.

Finally the findings suggested that policy tensions or “gaps” could not be accounted for merely in terms of the interplay of economic factors. Firstly no evidence was found that differences between different fractions of private capital – or between particular factions and capital as a whole – were key to policy contradictions. Moreover, it was discovered that political and cultural considerations were identified as conditioning immigration policy and debates at a greater extent than recognised in the literature. Examples were given of unfavourable treatment towards North Africans (and favourable towards Latin Americans) in agricultural and at-source hiring, deportations and regularisation processes. Policy advisors described this as being a response to (misplaced) perceptions of cultural incompatibilities between Maghrebis and Spaniards/Catalans. These cultural dimensions to policy (and

business) decisions – together with the examples of discrimination and favouritism outlined in 5.2 – confirms that the kind of nation-statecraft based on national mythologies identified by Soguk (and developed in this thesis) is in play in the contemporary Iberian context.

The significant role in migration policy of national projects is also exposed by the mutual distrust between Catalan and Spanish policymakers regarding keeping immigration powers centralised or decentralising them, and by the way Catalan policymakers created and applied policy in the limited spheres they have responsibility for. As well as the desire for sovereignty over immigration being part of general desire for genuine Catalan autonomy, the call to further “Catalanise” migratory-policy powers was linked with the desire to influence the regional “profiles” of migrants – including their language and cultural background – an example of stateless-nation-craft. In 5.2.2 evidence was presented that the Spanish state had (under EU pressure) introduced visa requirements for Latin American entry much later than for African visitors. It can be assumed that Spanish adoption of regularisation via rootedness would favour Castilian speakers from Latin America over other groups (including Spain’s southern neighbours). On the other hand a Catalan migrants-rights activist and Madrid-based integration specialist lamented that rootedness procedure in Catalonia disadvantaged those without knowledge of Catalan. In all, national cultural considerations also can be seen here to be a factor influencing policy (and related disagreements and compromises).

1 The same interviewee also indicated, however, that his organisation (COAG) eventually accepted the principle that rural jobs should first be given to the local unemployed – whether “native” or foreign – rather than foreigners living abroad (Mr. G.) He suggested that this stance meant convergence with the positions of the workers’ unions’ (ibid.)

2 There is no obvious reason why the sincerity of this account should be distrusted. Through the legal foreign recruitment scheme migrants were provided with a range of accessible and well-produced audio-visual and reading materials in a variety of languages on Spanish legal rights, labour conditions and practical and cultural matters (which were facilitated during the interview). Also, the farmers’ union leader displayed a deep knowledge of migrant-rights issues and provided little cause to question the sincerity of COAG’s concern for providing minimum guarantees for migrants under the agricultural foreign hiring scheme. Lastly the COAG leader also participated in the progressive *Vía Campesina* international network of small and medium farmers: an organisation that played a leading role in global justice movement protests in Seattle and elsewhere. (Mr. G.)

3 “Next-door neighbour” has been taken to mean a nearby farmer.

4 According to the PSOE-appointed FSII spokesman (Mr. V).

5 Under the 2009 Aliens Law, migrant women obtaining recognition by the courts or public prosecutor of suffering gender violence are guaranteed provisional residence and work permits (Ortega-Giménez, Alarcón-Moreno & Alonso-García. 2013.) According to the Observatorio de la Violencia de Género, in the first half of 2012 a total of 36 per cent of all women reporting suffering such violence were foreigners (ibid).

6 This would have been the case until 2011, when the interviews were performed, but would be less so since then due to business support for the new Ciudadanos party.

7 This finding is similar to that obtained from comparing Interior and municipal-register data (4.3.1)

8 The interviewee did not offer any figures for either immigration or irregular residence.

9 The Ministry of Labour figures very likely will be limited to those paying social–security contributions (regularly employed).

10 I looked at the fourth quarter of 2005 and second quarter of 2006 and found that for both periods all four Catalan provinces required “builders” for (Ministerio de Trabajo y Asuntos Sociales, 2005: 42517-42523; 2006: 20385-20389).

11 This is only up to a point however: xenophobia and racism has been experienced by many poorer migrants from these regions. In particular, Roma persons frequently are cited in anti-immigrant discourse and Latin Americans suffer from range of popular stereotypes.

12 He illustrated this assertion by signalling the strength of the cooperative movement in the Basque Country and Catalonia, where he maintained that local languages and cultures offered a “fundamental integration vehicle” (Mr. L.)

13 The language requirement was “among other things” (Ms. B.)

14 The anti-racist spokesperson expressed the view that the FSII had operated according to the on-side view outlined, and that this had led it to create “a thousand [new] structures” in order for immigrants to find out how to benefit from their social rights (Ms. A).

Chapter Eight

Conclusion: immigration paradoxes as dilemmas of a European state

The case study presented proves that disparities between immigration policies and outcomes can best be understood in relation to two impacts: that emerging from the internal contradictions of capitalist states themselves and the effect of territorial subordinations and semi-subordinations of nations to higher political authorities – in particular Spain to the EU but also Catalonia to Spain. The two central dynamics are summarised as follows.

The capitalist state as generator of immigration policy “problems”

States – despite their inverted appearance – are capitalist in terms of their functions and internal and external social relations. They must necessarily promote both the internationalisation of “national” capital and of its “factors of production” (including labour). Although capital can operate with and benefit from unfree or semi-free labour – including conditioned migrant work – it works more efficiently (both economically and politically – to ensure political consent) by employing “free” labour. International migration is often required – particularly at moments of economic expansion – but it is also perceived as a threat to states. This is because capitalism is (still) based on the nation-state system (despite globalist indications otherwise). The nation state remains the ideal “community” around which the system of competitive accumulation is organised. The ability of a state to arbitrate (including through threatening and performing coercion) between competing capitals, social classes and individuals, as well as represent “national interests” on the world stage rests on perceived legitimacy of its claim to sovereignty, which itself is linked to being seen as representing a bounded people.

Because the “community” around which such representation is based is fundamentally abstract in nature, and must compete with alternative social identifications – in particular related to class – that permanently threaten to undermine its ideological purchase,

the state must constantly engage in nation-craft. This must be performed *invisibly* in order not to expose the (generally) arbitrary nature of the nation. This can be done *negatively* through the state's interaction with immigration. By controlling and managing immigration and accompanying, prefiguring or substituting this with relevant discourse, the nation's boundaries and symbolically made and remade.

The process is complemented by the ways states incorporate their populations in the national polity. Modern states play the main role in managing the reproduction of the conditions for economic activity through administering a range of activities (including education, health and social-security provision). They include legal and democratic systems that guarantee the formal benefits of citizenship – even if these become undermined in practice by economic and democratic inequalities. The state functions described are made possible by means of systems of taxation – incorporating vertical and horizontal forms of distribution of income but always within the confines of the “imagined community”. Despite their great social limits, such political and administrative organisation provides some material basis that underpins ideologies of belonging and exclusion. In relation to states migrants can represent both a “saving” – by providing generationally reproduced labour power – and a threat to the precepts of legal and social (citizenship) contract. Therefore both materially and symbolically migration is inherently a problem for the modern state as well as very often a necessity. This paradox is deepened firstly due of internationalising tendencies in the economy, politics, culture and law that make state control of mobility harder (but not impossible). Secondly, adding to the analysis developed thus far, Calavita observes (in relation to low-wage migrant employment in Spanish agriculture) that the qualities making migrants attractive to some employers (for example their poverty and perceived low status) are precisely those that can make them unattractive as potential new members of the national “community”¹ (2005: 11 & 12).

The deeply rooted ambiguities described encourage policy fudges, “muddles” and vacillations. In the Spanish case they have been a factor in the development of high levels of irregularity and enormous disparities between political discourse and action. This, and the concomitant emergence of social divisions between migrant and non-migrant, formed the background to the El Ejido riots. After these Catalan and Spanish farmers attempted to avoid future social fracture through the generalised introduction of a variant of the “guestworker” immigration model. Although this provides a minimum of social conditions for migrants it does so paternalistically – restricting migrants' ability to change employment and excluding them from the chance of citizenship and arguably real membership of society. (As with the

similar post-war German model of immigration, it may encourage anti-migrant reaction from the local population by treating migrants as having a qualitatively lower status).

The systemic contradiction identified also can be understood as the backdrop to differences between states and capital fractions, between migrants / contemporary unions and restrictive governments, and between different political parties. When conservative minister Pimentel resigned complaining that his Ministry of the Interior was treating immigration as a “problem of public order” rather than “a source of wealth and well-being for everyone”, he was revealing a fissure in the government likely related to the contradictory needs of the capitalist state (Pérez-Díaz, Álvarez-Miranda & González-Enríquez, 2001: 107). It is revealing that irregularity and political disputes over immigration both reached their heights in the period of Popular Party government and subsided under the subsequent social-democratic administration. The most likely reason is that the Aznar government had a more (Spanish) nationalistic political agenda, whereas the PSOE had an immigration approach more in accordance to business interests (exemplified by regularising hundreds of thousands, moving state management of migration from the Interior Ministry to the Ministry of Labour, and putting the main social agents at the centre of policymaking – before the crisis. It genuinely did treat immigration as a “labour issue” – leading to new policy gaps and injustices when the crisis impacted hard on migrant employment.

Comparisons between experiences under the conservatives and Socialists indicates that party politics has a considerable influence on policy, but not just or mainly because of voter influence. The Popular Party alongside the media *led* much of the backlash against immigration in the early 2000s (even if both further hardened their attitude to migration in response to the subsequent growth in popular anti-immigrant sentiment). Unease over immigration in the same period was a bi-directional process led frequently from above – a development inconsistent with much mainstream migration scholarship).

As well as national-construction being a factor in the inclination to limit “volumes” of immigration, it also shapes the desire to select particular migrant “profiles”. It has been identified that in Catalonia and Spain these are related to dominant national self-conceptions (which logically would normally be dominated by elites’ perceptions). These views are shaped by the historical and contemporary national mythologies and fears. The idea that Spain and to a large degree Catalonia define themselves (at least partly) in opposition to “Muslim occupation” has been identified in the interviews and literature as negatively shaping attitudes to North African migration (Carmona, García & Sánchez, 2012: 128 & 129).

On the other hand, European immigration is normally invisible – probably linked to the strong “Europeanism” of twentieth-century Catalan nationalism and post-Franco Spanish centralism – partly related to its association with modernisation and liberalism. Less obviously the research discovered a strong element “*Hispanismo*” in immigration policy and practice, Zapata-Barrero: 229). Different Spanish governments have introduced measures giving preference to Latin American entry and access to citizenship – awarded to “latinos” after two years’ residence – rather than eight for other migrants² (Garcés-Mascreñas, 2012: 117). Accordingly South and Central Americans have become by far the main beneficiaries of naturalisation processes³. The children and grandchildren of Spaniards are treated as nationals. According to one Catalan researcher, citizenship policies are linked to “the identity myth [sic] establishing the foundation of the country” (referring to the early-modern idea that Spain and its empire were one and the same, Zapata-Barrero: 229). This view is echoed by conservative Spanish analysts. For instance, the popular right-wing commentator Federico Jiménez Losantos argued, “mass entry of African Muslims would produce racial and cultural conflicts” and contrasted this regional group with “Hispano-American immigrants” who he described as “sharing our language and religion” and being “easy to assimilate”⁴ (Carmona, García & Sánchez, 2012: 128 & 129. Such thought could be traced to traditional Hispanist thinkers such as of scholar Menéndez Pelayo, who in 1890 stressed the Catholic, linguistic and cultural ties between Spain and its former colonies; Balfour & Quiroga, 2007: 32).

The empirical investigation revealed that tensions between Catalan and Spanish policymakers may be greatly related to regional biases in policy than other factors (and are not rooted in economic differences). Catalan identity centres on its language – often in rivalry with Castilian – and Spanish speakers – including from the Americas – are understood to less willing to learn it. Yet it is not that all Catalan nationalist policymakers would prefer African immigration: conservative Catalanism shares with contemporary Spanish centralism identifying with Europe and its supposedly Christian “values”. The emergence of Islamophobia since 9/11 and the War on Terror has added to previous right-wing prejudices against Muslims (Keiner-Liebau, 2009: 208).

The influence of nationalist worldviews in contemporary immigration policy should not be assumed to be circumscribed to nation-states and stateless nations in competition for people’s allegiance. While it is true that this rivalry might reinforce the importance of national consideration within immigration policy processes, its main role may just be to make processes more visible. The White Australia policy in effect until the 1970s or the advantages given in immigration policy to the foreign families of British people in Britain in

the 1980s show that cultural selection is an international phenomenon. Indeed it could be asked if it is a coincidence that free circulation of European citizens has coincided with the prominence (on the continent) of ideas of European “community” and “cultural heritage” (Haynes, 1999). Relatedly Cetti maintains that EU outer-border management might help encouraged European identity through comparison with outsiders. Concretely, she maintains, this might stimulate

the ideological construction of a specific “European” identity, distinguished by a fabled commitment to democracy, the rule of law and Enlightenment principles (2015).

If the EU is assumed to be a partial project in nation-building this observation might reinforce the idea discussed above of borders and related discourse as negative nationcraft.

The interviews performed presented strong evidence to reject seeing migration controls simply as labour policy – as some radical structuralists argue. This mistake stems from applying a political economy approach that is overly reduced to the *abstract economic* and that pays insufficient attention to the role of the state as a political and economic actor. Interpreting paradoxes as originating from a clash between pre-capitalist territorial logics and the logics of markets is a misleading binary – even if one somewhat difficult to avoid when summarising processes in simple terms.

The main problem with seeing borders principally as instruments of labour discipline is that the empirical enquiry found that employers often acted to liberalise borders – doing so individually or in a seemingly unlikely alliance with unions. It is likely that the partial detachment of Aznar’s immigration policy from business requirements was not merely an electoral calculation – as suggested by the government’s pro-active hardness towards migrants. Instead it likely also reflects the role of government and state in the capitalist division in labour: guaranteeing the social and political conditions for successful accumulation in the long term (albeit doing so through a worldview little-evolved from that bequeathed by Franco’s dictatorship). Employers, on the other hand, played their historic role by prioritising short-term competitive interests. The shallowness of their liberalness towards immigration was revealed when they pressed (successfully) to exclude the parents of migrants from reunification processes: indicating that it is labour power that attracts business to migration, not people aspiring to improve their (or their families’) lives or simply to survive).

Another finding warning against economic reductionism is that the severe economic crisis post-2007 had limited impact on policy gaps and the problematisation of migration. In recent years political, media and scholarly analyses often have assumed that more restrictive immigration policies and the growth of anti-immigrant politics are *products* of the economic crisis. Spain has been shown to be a paradigmatic case of “boom to bust” yet the interviews and literature survey suggest that polemics and popular concern regarding immigration grew faster *before* the crisis than after. According to a study of CIS monthly polls many other issues are now cited as “Spain’s main problems” *before* “immigration” – unlike in 2006 when immigration topped the poll; Aja, Arango, & Oliver-Alonso, 2010). There were less disagreements over immigration in the crisis period and the most significant electoral advance of xenophobic parties in Catalonia began before 2008 (Rius-Sant, 2011). Irregularity did grow under the crisis due to rootedness procedure but a few years into the crisis migration into Spain had slowed greatly and many earlier migrants left the country. In all, policy gaps and tensions were more notable in the “boom” years.

All the same, if irregular migration is mainly a consequence of the inherently conflicting relationship between states and foreigners, this does not stop it from being used to benefit sections of capital and the state – as clearly has been the case regarding the employment of migrants in sectors such as agriculture, construction and domestic services. The (partial) benefits for elites gained from conditioning migrants’ rights may act to lessen motivations to overcome policy gaps. Yet the experience under the Socialist government in which worker vulnerabilities were continued after mass regularisation by tying regular renewal of residence to remaining in employment (including in the adverse post-2008 economic climate) suggests that it is the *conditioning* of migration that creates competitive advantages for employers, and not strictly illegality. This conclusion points to the need to develop a more sophisticated view of policy dynamics.

A last factor shaping gaps is migrants’ subjectivity. Whether penetrating genuine attempts at border enforcement or refusing to “return home” in periods of crisis, migrants do not simply respond mechanically either to economic fluctuations or policy decisions. By transgressing they themselves shape the size of paradoxes – for example when choosing to reside irregularly or holding strikes to gain papers – as they did in in the early 2000s.

A second source of paradox: a partial, divided and de-embedded Europe

The other major factor encouraging the large policy gaps identified in Catalonia and Spain, and that has aided the problematization of immigration, has been the disparity between EU policy and Spanish pre-crisis labour requirements (thus confirming the suspicions of Catalan writer Rius Sant). Between the mid 1990s and 2008 several sectors of business activity needed to mobilise large new reserves of labour to fill vacancies: particularly doing anti-social, physically demanding, low-skilled and low-status labour that non-migrants had become reluctant to perform. However, Spain's incorporation in the Union forced migratory policy to develop in a (contrasting) restrictive direction: beginning with the 1985 Aliens' Law that illegalised many residents and set the template for Spain's irregular model of immigration. It is likely that the strict border policy introduced due to Schengen encouraged legal migration to develop through *in situ* regularisation processes, which themselves probably stimulated further "illegal" immigration⁵.

Despite media attention on immigration to Spain focusing on its African border, the bulk of migration has taken place across its French border – from Europe – and through airports – from the Americas. As a result the demographics of migration have transformed significantly. Statistical evidence analysed shows that the two regions formed approximately three quarters of all foreign-nationality groups in Catalonia and Spain by 2011. European policy was a factor in these patterns – alongside Spanish regional preferences.

It might be said that the EU project has produced a "territorial paradox" over migration in Catalonia and Spain. This is partly due to its political integration being both *partial* and *unequal*. Inequality between core and periphery was illustrated vividly by the interview example of police chiefs in Brussels bypassing powerful Spanish ministers to direct border control. It is difficult to imagine such a direct intervention in a more powerful member state – such as Germany or France.)

It has been shown, nonetheless, that the EU is more than simply a hierarchical amalgam of states. It also has its own institutional structures, power and dynamics allowing it to act internally and externally in ways subject to less control by citizens and legal systems. This has allowed the EC institutions to evolve to play a notably instrumental role in the migratory field. As signalled by migration scholars, European integration have made possible interventions that likely would have encountered more resistance if carried out by national institutions. Schengen's precursor (concretely an accord between France, Germany and the Netherlands) was described by Guiraudon as being based on the following progression,

[A] growing realisation of domestic legal and political constraints on immigration control capacity prompted these countries to seek new European level venues where co-operation could be insulated from these constraints. (Geddes, 2003: 130).

More concretely, for Hollifield and Geddes the externalisation of border policing to “third-party states” – including the creation of “buffer states” – allows taking the “burdens and dilemmas of control outside the jurisdiction of liberal states in Western Europe” – an effect further encouraged by outsourcing border enforcement to private security, defense and transport firms (Geddes, 2003: 127 & 8; Cetti, 2015).

These qualities combined with the relative power of a bloc representing a large segment of the world economy allow imposing authoritarian immigration policies on peripheral states outside and inside the EU – particularly those on its geographical edges. This can lead to intensified political “fudges” in countries such as Spain (or Greece) that criminalise rising numbers of migrants, undermine government legitimacy further, and encourage xenophobic local reactions (while humanitarian tragedies pile up at the border). “EU pressure” may also provide “useful ‘political cover’ for ... officials already bent on a restrictionist immigration policy” – as Cornelius & Tsuda wrote on the Aznar administration (2004: 423). Together these conclusions point to the current model of EU integration being a key destabilising factor in migratory affairs in peripheral border states (although more research on the topic would need to be carried out to confirm this).

Yet neither irregularity paradoxes or contradictory attitudes to immigration started with the European Union and they also exist in extreme form in countries that are not subordinate partners in political unions – most notably in the USA. Accordingly it is likely that policy gaps are best seen as responding to *both* of the dynamics identified: *the intra-state contradiction and the inter-state contradiction between EU core and periphery*. Identifying the exact juncture and hierarchy between the two axes would again require future enquiry on the subject, which could be comparative or a more ambitious continental research project.

¹ In her own words “immigrants are useful as ‘Others’ who are willing to work, or are compelled to work, under conditions and for wages that locals now largely shun. The advantages of immigrants for these economies resides precisely in their Otherness. At the same time, that Otherness is the pivot on which backlashes against immigrants turn. For, if marginalized immigrant workers are useful in part *because* they are marked by illegality, poverty, and exclusion, this very marking, this highlighting of their difference, contributes to their distinction as a suspect population” (Calavita, 2005: 11 & 12).

² This relative advantage is also awarded to nationals of the Philippines – another ex-Spanish colony.

³ In 2006 Ministry of the Interior figures found that this regional group made up 81.5 per cent of all foreigners that acquired Spanish nationality (Garcés-Mascreñas, 2012: 117). This preferential treatment is guaranteed through a Citizenship Law developed from the 1889 Civil Code that gave citizenship to residents of Spain’s colonies and ex-colonies in Latin America and the Philippines (ibid).

⁴ He qualifies his support for Latino immigration by suggesting it should be of Spanish descendents (Carmona, García & Sánchez, 2012: 128 & 129)

⁵ A third of migrants in one survey said they had been encouraged to move to Spain due to the perception they later might gain regularisation through an amnesty (Cornelius, 2004).

Chapter Nine

Appendices

9.1 References

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9.2 Methods materials

Appendix 9.2.1: Interviewees performed in 2011

Advisor for the Catalan government and participant in the Spain-wide Strategic Plan for Citizenship and Integration and various advisory forums

Mr. R

Barcelona

24 May

Ex-spokesperson for the Information Centre for the Foreign Worker (CITE) and ex-participant in the Forum for the Social Integration of Immigrants

Mr. M

Barcelona

6 June

Academic researcher on Spanish policy and irregular migration

Ms. B

Barcelona

14 June

Elcano Royal Institute associate researcher and specialist on border policy and policymaking

Ms. R

Madrid

21 June

Senior Advisor for the Ministry of the Presidency of Spain and ex-consultant in the Ministry of Labour and Social Affairs

Ms. T

Madrid

22 June

Spokesperson for the Social Forum for the Integration of Immigrants

Mr. V
Madrid
24 June

National representative for the Workers' Commissions union federation (CC.OO.) on the Economic and Social Council¹ (CES)
Ms. S

Member of CC.OO.'s national legal office and specialist on immigration law.
Mr. J
Madrid
18 July

Head of international affairs for the National Confederation of Construction (CNC) employers' association
Ms. M
Madrid
18 July

Representative of the Galician Trade Union Confederation (CIG) on the CES
Mr. L
Madrid
20 July

Spokesperson for the Spanish Business Confederation of Social Economy (CEPES) and representative on the CES
Ms. C
Madrid
20 July

Member of the executive for the Coordinating Committee for Agricultural and Livestock Farming Organisations (COAG)
Mr. G
Madrid

21 July

Spokesperson for the Papers per a Tothom undocumented-migrants support network

Mr. E

Barcelona

4 August

Spokesperson for the Catalan anti-racist organisation SOS Racisme

Ms. A

Barcelona

5 August

Preliminary meetings held in 2010:

Researcher in industrial relations and applied economics

Autonomous University of Barcelona (UAB)

2 June 2010

Members of the Immigration and Minorities Research Group (GEDIM)

UAB

Barcelona

14 June 2010

Ms. B

Barcelona

15 June 2010

Mr. R

Barcelona

7 July 2010

¹ This interview was very brief, as it was suggested that it would be more interesting to talk to someone with more of an immigration specialism. Nevertheless, some brief comments by the CES participant have been included in the interview findings.

Appendix 9.3

Two edited interview transcripts (translated from Spanish)

The transcripts included here are two almost complete recorded interviews. Questions and answers have been edited to remove information that was not significant for the purposes of the study – a very minor part of the interviews. This was even the case when the direction of parts of the exchange was considerably influenced by the interviewee. Where any significant removal of content takes place, this is marked with a “(...)”. The transcript contains many summaries of the exact words enunciated in order to eliminate insignificant content. No indication is made where this takes place.

9.3.1 Interview on Spanish border policymaking and practice

The following transcript is of an interview with the Elcano Royal Institute associate researcher and specialist on border policy and policymaking (Ms. R). The interview took place on 21 June 2011 at Madrid’s King Juan Carlos University (Universidad Rey Carlos, URJC) and lasted for one hour eleven minutes. The guideline questions used included a strong focus on policymaking processes. The border-management specialist had performed comparative research on policy processes in Spain and Britain.

Interviewer: Who are the main actors participating in [immigration] policy processes?

Ms. R: It depends a lot on the area. Integration is very different from – or much more open than – the area I have worked on: border control. In border control it is the European Union and the National Police that decide and organise, or that influence policy and what happens at every moment in Spain. It is not an area of decision-making that is open and in which many actors participate because those in charge of applying and managing policy are the National Police.

I: Then who determines border control policy?

MR: My impression is that it comes from below. All of the people I know in the National Police participate in all of the European Union meetings and work groups. What they do is observe what is being applied [in Europe] and develop it [in Spain] also. There are novel things that have been developed first in Spain such as the Integrated System of External Surveillance [SIVE according to its Spanish initials]. But [policy] is more than anything the product of the work carried out in the working groups in Brussels. These are the ones that provide the ideas and make sure that all proposals get to the top: to the Ministry, when a bill needs to be created, when a change needs to be made. Therefore everything that is done in border control comes from there.

I: So does the [Spanish] State decide policy?

MR: [Immigration] powers are the State's, they are state-wide.

I: But the ideas often come from Brussels?

MR: Yes, because those people work in Brussels. I mean all of the high command of the National Police working on borders take part in the working groups in Brussels, those that have participated in creating the SIVE [Integrated System of External Surveillance] and the VIS [Visa Information System], in all of the technological systems, in everything that's done in Brussels. They are the ones who say how things are heading, what the developments have been. And they often tell you that what most brings about fluidity and change is these exchanges: formal and informal contact with other European colleagues. When I did interviews for my thesis in 2004, almost everything already operated that way. (...)

I: So the police have some weight when deciding control policies?

MR: "I think so. It is basically them that decide. The other side [to decision-making] is the politicians. To what extent do they decide? Well, in the 2000 and 2004 reforms, which were the last ones carried out by the Popular Party, there were politicians that liked to be in the papers and show their policies. One of those

that had most influence on policy was the Secretary of Immigration who was not an elected representative but a civil servant, and it was he who designed the last reform. In reality it is not the politicians that design policy. They might establish priorities at a certain time, for example 'at the moment the priority is against illegal immigration', that they will do. But to decide how to go on to do it, [there] are professional civil servants – in this case the Deputy Director General or members of the National Police itself. At the moment this works well. There are many coordination teams inside the Ministry. And this [Socialist] government has made some political appointments within the Ministry itself. It has created a new department – of International Policy if I am not mistaken – (...) [run by] a professional police officer – from the National Police. It's just that they make him a political appointee so that he becomes the visible face. That's why I say to you that in reality it is the National Police that directs and manages [things] in [the Ministry of] Interior."

I: Could you tell me more about the working groups in Brussels?

MR: Each of the [EU] treaties reformulates what the working groups are: the group of article 7, or article 36. Work groups are set up when priorities are established: now for example with the European Pact¹ or the Stockholm Programme², which is in effect now. The priority work areas are identified and within them working groups are set up, which comprise of all EU member countries plus invited countries: those in the process of joining the EU (such as the Eastern European countries, which were guests in the working groups for many years). There are specific work groups in all areas: visas, border control, for the SIS [Schengen Information System³]. There are groups for everything. As well, there are forums of (for example) FRONTEX focal points⁴. [In Spain] the person [involved] is Andrés Montero. These [groups] also meet periodically. Most public servants have a working group meeting with all of their European colleagues at least once a month, at the very least every three months. These are the formal groups. But, also, many parallel working networks have been set up. Many international conferences are held to which experts from each country go – [something that] didn't used to take place in

Spain. These are the main networks through which a public servant acquires information about what needs to be applied and how.

I: What are processes like in other fields of immigration policy – for example migrant labour?

MR: I think it operates very very differently. The Interior area is very closed. I study policy powers in this field. I understand, however, that in fields such as the labour market, there are many more actors involved in policy-making. There, different immigrants' associations participate, such as that of Ecuadorians in Spain. I think the field is more open and Ministers meet more regularly. More than anything this is because there are much more interests at stake. Interior is a very different field. Interior is closed in all ways. However, in other areas such as Integration and Labour I think there is a lot more participation by associations (...) I think [they are] much more open. Also because of the people that are working in the ministries, such as (...) the [Immigration] Secretary, who is Ana Terrón i Cusí who was in Brussels for many years and has a much more open mentality and way of working than in other fields.

I: How are political advisors chosen? Are they chosen simply by the acting Minister at the time? Is there are more fixed system?

MR: Basically yes [they are chosen by the acting Minister]. But bear in mind that in Spain there are appointed political positions and there are civil servants. They tend to be civil servants up until [the rank of] Deputy Director General (DDG). However they also tend to be civil servants aligned to the party in office.

I: So they change with the government?

MR: Right. (...) They are professional public servants. They may have worked for many years in the Ministry, many years working on these topics. But it is accepted that both they and the people [following them] should be politically aligned [with the Minister].

- I: So the government simply appoints new civil servants?
- MR: [Breathes in deeply]. You can make changes. But the civil servant has a certain level and seniority. You can tell the other person to move to a job of a similar category and wage somewhere else.
- I: Does this happen a lot?
- MR: Yes [emphatically]. It's a very different way of operating than for example in the UK. It doesn't compare hardly (...) Then you have the political positions, which are normally [those of] the Director Generals. They are politicians – they shouldn't be civil servants. Above [them] you have Ministers. These have advisors. (...)
- I: Do they only have one adviser?
- MR: Generally they would have more than one. Finally, you also have the Moncloa [presidency]'s advisers. (...) Normally at the top rank of the civil service is the Deputy General Director and these are people [politically] aligned to the government. Even though they are professional civil servants, they have normally been appointed to this political post by the government.
- I: Have there been changes to the policy/political processes in relation to immigration?⁵
- MR: In the area of border control I would say no. Restructuring has taken place that could be seen as substantial: for example managing immigration at ministerial level – as opposed to at that of deputy general director or equivalent. When the PSOE won the last elections, immigration was let's say promoted in [administrative] rank. From around 2000 immigration became separated from Interior and Justice and incorporated into Labour and Social Affairs. That was the general perspective. But Interior's [immigration] powers stayed with the ministry. [The responsibility for] explaining immigration issues to citizens changed ministry, but powers not that much. What has improved, in

my opinion, is the coordination between the different actors with a role in [immigration] policy: better coordination between the Autonomous Communities by bringing them together in a Political Council; and forums with participation by civil society. Work has been done on increasing participation. I also think there has been a change of mentality with regards to Europe. (...) At first, Europe was treated warily: "I want to do my policy. I'm in charge of my borders, and it's fine if Europe makes its own policies but ultimately I decide". This viewpoint has changed. Spain has been much more pro-European for some years.

I: How do employers participate in processes?

MR: In the areas that I know about, not at all. You would have to look at the Labour area.

I: Even in cases in which border control affects labour mobility?

MR: As far as I know, there has not been an open discussion about this in Spain. At least I've not heard it raised in Interior. (...) My perception is that there has not been demand for this by employers. (...)

I: You mention in a study that public servants influenced policy between 2000 and 2004. Could you go into more details?

MR: (...) There was a period when they changed political appointees greatly. We are now in a period of crisis when the situation of immigrants is not discussed. However, in 2000-2004 it was constantly talked about by the Aznar government. There was what we could call an alarmist discourse towards immigration. Immigrants were always in the news. They were treated as a danger in certain sectors. Immigration was a big political issue. There were big changes at the top of politics. Fernández Miranda was made DDG for immigration, and then Ignacio González (...) These were people who did not have any experience in working with immigration. They were party people. Fernández Miranda was a businessman with PP connections. They were

[given the job] because they had the party's discourse but in fact they didn't know anything about the immigration issue. They knew how to spin the government's priorities, but they didn't know how things were done. They had a DDG who designed everything they asked for – the person I spoke to you about. This is the consensus view of how things worked. (...) [The DDG] was the person organising all immigration policy. In those years he was the only person you could talk to about policy. All of the government representatives repeated the same discourse you found in the press. They couldn't explain *how* things were done. (...)

I: How would you characterise the relationships between the different government departments that deal with immigration? Has it been based on agreement or conflict?

GM: There has been a bit of everything. In the 2000-2004 period the person that centralised all [immigration] administration because all powers were there. Once powers were moved to [the Ministry of] Labour there were conflicts over who had what power. The last Minister Consuelo Rumí did a great deal to have informal [consultation] meetings. Those with a particular responsibility had to go to every formal meeting in Brussels on that subject: even let's say on the latest on contracts for temporary workers. It's good to coordinate with [other Europeans]. I think this has helped avoid too many frictions arising. There were some frictions particularly when powers were transferred from one ministry to another. I don't know whether it is a question of culture but different border police forces (the National Police, the Civil Guard) have had to learn to work together despite each having their own [jurisdiction].

I: Did they not used to manage to agree?

MR: Right, or they have to get to agree bit by bit. The Civil Guard has the border control management role. The National Police is in all of the equipped immigration stations: land, air and sea. But where there is not a station, it is the Civil Guard's jurisdiction; and in stations the National Police is responsible for controlling persons and the Civil Guard, goods. Zapatero at one point

proposed creating a Spanish border agency (like there is in the UK) to oversee matters and centralise powers, but dropped the idea and didn't mention it again. I think that coordination should be compulsory. I am aware that informally there has been an effort to work in such a way in the PSOE governments. When Marta Rodriguez Tarduchy [Director General of Immigration] moved to the Ministry of Labour professional police officers also moved [with her]. They are people that have worked well together. (...) Good coordination, sharing political affinity is important and that explains the many changes that occur in the civil service when the government changes.

I: What role does the Police General Directorate play in processes?

MR: An important one. Inside the State Secretariat for Security is the Police General Sub-Directorate which is made up of the Civil Guard and the National Police. There is another General Directorate that I think was created after the 2006 "small boat crisis". This was pretty much a *political* leadership in a period in which bilateral agreements were sought with African countries where they didn't exist. The International Relations General Directorate had a fundamentally political role: bilateral, international relations. These people are those that coordinate and organise almost anything related to Interior. The other bodies are responsible for applying and supporting what is decided by the Directorate.

I: Who and what is the General Directorate made up of?

MR: At the moment there are two special areas. The International Police Cooperation Sub-Directorate manages all [international and national] police cooperation in all fields – including immigration. Then you have the other specific sub-directorate for immigration. (...) One Deputy-Director is a policeman, but another is a politician. (...) There are civil servants in the sub-directorates. We met with three⁶. There are not much more of them. (...) We met with the Deputy Director and all of the people that accompany him to Brussels [working on] mafias and all kinds of things. [The Deputy Director's] work is to coordinate who is the person responsible for going to this, who for

the other, who is interested. Work is done much better than some years ago because there is a central person who knows what to do and who should do it.

[...]

I: Why do you think there is so much irregular immigration in Spain?

MR: There are many different views on this: there are those who say that controls aren't working properly, those that say that the territory is difficult to control. But basically it is because there is irregular work [available] and this is not [seen as] a problem. There is no culture or morality that prevents hiring someone irregularly. It is [seen as] the most normal thing. Southern Europe is very different in this regard than most northern European countries – the scandals that emerge occasionally in the UK because someone hired an irregular carer. Everybody has an irregular migrant hired. Well, maybe not everybody but... Requirements [to regularise] have changed a lot compared to a few years back. Now it's very difficult for someone looking after children or cleaning houses. Before she could add together work hours in different jobs to be able to claim social security. Now, you are required to have a single employer – with a certain amount of earnings. Most people can't comply with the complicated law but need someone to pick up their children from school. Most would never ask if the migrant is documented. This attitude is pervasive. If someone comes to mend your blinds, for instance, they ask whether you want an invoice or not, whether you want to include VAT or not. This is not a feature only of immigration. It exists in all fields. (...)

I: Because of bilateral agreements with countries such as Morocco, Spain is able to repatriate irregular migrants, but I think 80 per cent of immigration into Spain is through airports and visa overstays and there seems little response towards this. And there are Africans intercepted on the southern border that are later released in Spanish cities, are there not?

MR: Everyone that enters through Morocco can be returned to Morocco. That's the simplest case. There are other things that are more or less difficult, more or less expensive, or that require more or less legal paperwork. What is the least demanding is to return people at an airport. I think that the controls currently being carried out in airports of international flights direct to Spain are the most exhaustive around – flights from Brazil or other Latin American countries. What do you do there? If you identify people within a certain timeframe, the airlines are responsible and they must take them back.

L: Could you clarify the point about airlines?

MR: If you as an airline let someone in without the due documentation, and you at the border see that there is not this documentation, the airline must take the person back. What does that cost the Spanish state? Nothing.

L: For someone that does not have a visa?

MR: Right.

I: But there are people that are documented but decide to stay longer...

MR: What is the problem? You don't have control measures. You know that this person entered on this date, but you don't know where they are [now]. You would have to find police officers to search for the person. You know they had a 3-month visa, but you hadn't recorded when they entered and when the visa expired. I think in the UK you keep this information, but here the information is not kept. Here you only know that the person had a valid visa and that she entered the country. For that reason I'm saying you have no way of controlling the person. So depending on the area, there are things that are easier to control and things that are not.

I: What about the African migrants that are intercepted?

MR: Wait a moment, you asked me about readmission agreements before. (...) From 2007 to 2009 many readmission agreements were signed, but before then there were very few readmission agreements. There were very few people that if you didn't demonstrate that they had come through a country with which you had an admission agreement, you could not send them anywhere, and you did not have centres to detain them in either. You had to put them on the street. That's why I say it depends on the situation because if in 48 hours you couldn't show that this person was from a certain country you could not detain them further.

I: I suppose my question is whether the permeability of the Southern border...

MR: What?...

I: ... is simply due to not having applied a system like in other countries to control entry or whether there has been an undeclared permissive attitude due to the need for labour earlier? This is a question I ask myself: whether the failure to control is accidental.

MR: I reckon that both things are happening. On the basis of what I know about the National Police force its attitude is, it's true that in terms of enforcement, they have never had clear guidelines on looking for migrants, identifying them and deporting them. During a very short space of time with the PP [in government] they did, in 2004. If you ask them, they say, "Look, we have limited resources and our main role is to arrest criminals and not irregular immigrants. If I have to decide on where to put resources, I will put it into the first thing and not the other".

I: The police no longer check documents in the street?

MR: They have done it for very short spaces of time.

I: I remember it happening a lot – in the centre of Barcelona.

MR: I was told that this only happened when [the police] suspected that the person was involved in some other [criminal] activity. In Madrid, for example, in most local areas I was told “If you think the person is involved in this, if they go to the same square every day, and you think they are involved in some kind of trafficking, you ask to see their papers”. I have always been told that they have other priorities. It’s a question of mentality. The policeman tells me, “If the only thing they are doing is working illegally then we all earn a bit on the side on something”⁷. [...] And there are police that have a job on the side. That’s why I say mentality is everything. From time to time there are instructions to arrest illegal immigrants. Two years ago in the Madrid region police stations were instructed to bring in a certain amount of undocumented immigrants per month ... Economically it doesn’t make sense to chase people because the only thing you end up doing is starting up an expulsion procedure. The person is not detained. They are in the street. When you begin a procedure you have to look for the person in the street, try and locate them. That’s why I say it has never been a priority throwing out people located inside the territory.

I: Didn’t you say that for a time the Popular Party government was...

MR: Sometimes there are guidelines of this kind.

MR: Are we talking about throughout the period of the Aznar administration?

I: I think his policy was more hard-line from 2000 to 2004. That was the period in which these kind of issues were most discussed. [...] But a year or two ago it was published in the news in Madrid that the police stations in Madrid had been given objectives regarding how many irregular immigrants had to be identified and arrested each month. But I think that now migrant people that are undocumented are not feeling the harassment and pressure that they felt in those years, when they could be arrested leaving the underground... (...) Another criticism has been that there are no workplace inspections. Another complaint made by the police is, “Why should I have to look for irregular immigrants when [the Ministry of] Labour can also do this – through

workplace inspections. Why should I have to stop people on the tube when their people could go to the factories and workplaces.” (...)

¹ This appears to be the European Pact on Immigration and Asylum (<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV%3Ajl0038>)

² The Stockholm Programme sets out the EU's priorities on justice, freedom, security and citizenship – replacing the earlier Tampere and Hague programmes (<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3Ajl0034>)

³ This is the EU's database used for border control (http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/schengen-information-system/index_en.htm)

⁴ FRONTEX is the European Agency for Border Management.

⁵ There was a significant misunderstanding in the interview here. The aim of the question was to ask about policymaking. Unfortunately the Spanish word for “policy” (“política”) can also mean “politics”. The interviewee answered focusing on the ministerial organisation of immigration and relations with the EU. Because some of the information offered was of interest, I opted to not interrupt the response and to ask more-concrete questions about policymaking processes afterwards.

⁶ The interview is clearly referring to research performed in the Ministry of the Interior. Her use of the third person *plural* may refer to group research performed with immigration officials.

⁷ “Sobresueldo en algo” could also be translated as “bonus in something” but the meaning seems clear from context.

Appendix 9.3.2 Interview with union specialist on migration

Interview with an advisor in the central legal team of the Comisiones Obreras (CC.OO.) union federation and specialist in immigration matters. The interview was performed at CC.OO.'s central headquarters in Madrid on 18 July 2011, and lasted one hour seventeen minutes.

(...)

Interviewer: In 2000 there was a lot of political discussion about the Immigration legislation. Could you explain more about the background to the [Economic and Social Council] report that became a framework for later legislation?

Mr. J: (...) The unions and employers had reached an agreement that immigration in Spain is a labour matter. Accordingly it should be managed as a social and labour issue by the social partners themselves – meaning the unions and employers' representatives. The [2000] Economic and Social Council (CES) report created the basis for deciding how and through which mechanisms labour migration should be managed in Spain: through channelling migratory flows, introducing efficient management mechanisms, identifying the national employment situation. "Are foreigners going to come?" "Yes." "Are they needed in the economy?" "Yes." "Is immigration going to be tailored towards the needs of the economy, towards labour market needs?" And then there is another aspect which is crucial to the Spain. You know that that the Spanish system produced irregularity? The CES report says "we must establish mechanisms to occasionally remove people from irregularity through what are called rootedness mechanisms" – processes of individualised regularisation".

I: Was rootedness not introduced later?

MJ: Rootedness is introduced into laws later, particularly in the 2001 regulations. The CES sets forth that it is necessary to establish legal mechanisms to rescue people from irregularity to avoid situations of social exclusion and super-exploitation at work and even social dumping between employers.

- I: There was a lot of irregularity after 2001, was there not?
- MJ: Always. In Spain there has *always* been irregularity. You should see how many extraordinary regularisations there have been. The 4/2000 Law started a regularisation process. The PP government opposed the Law but because it was a minority government it had to accept it. It was the first and last time they lost a vote in government, on 22 September 1999. The PP won a majority in the General Elections in March and modified the 4/2000 Law, but first it had to administer the Law that it hadn't passed. The PP applied the law very strictly. As a result, the regularisation failed and to such an extent that the government was forced to review the rejected cases in what we call the "resit"¹. The government realised that it had been so strict due to its lack of belief in the regularisation mechanism that the regularisation process ended up being laughable. It was the professional administrators who put themselves forward to review all of the cases rejected in order to rescue the regularisation.
- I: The decision to hold a new regularisation process had nothing to do with the protests by immigrants in that period?
- MJ: The mobilisations came later. There was another event first. There was an accident in Murcia in 2001, when a train collided with a van of Ecuadorian immigrant workers. The PP government then did a *selective* process, exclusively for Ecuadorians – also in 2001. And the famous rootedness procedure was introduced then but without having any legal procedure in place behind it. Rajoy announced after a cabinet meeting that it would cover all of the foreigners that could show they had been in the country before a certain date. Irregularity is a classic feature of the Spanish immigration model, unfortunately. And it has accompanied us in all of the processes.
- I: Do you understand irregularity to be coincidental or is something almost structural in Spain?

MJ: Irregularity is linked to the size of the underground economy. CC.OO.'s stance is not so much to link irregularity with immigration, but associate irregularity with the underground economy. So if we attack the underground economy, we would end irregularity. That is why we help break the link between the underground economy and not just to immigration but in employment in general. (...) The foreign workers come to Spain because they know that they will get work – regular or irregular. In other countries around us, maybe this is not so because they have greater control mechanisms (...)

I: Is this still so with the crisis?

MJ: The other day the OECD produced a report pointing out that foreigners are still coming here. Why? It's logical because migratory projects take a long time to gestate. When I arrive in Spain it is after developing a project I decided on three years ago. If Spain is now in crisis, that's not going to stop my migratory project. There is an inertia that made me come to Spain. My hopes are tied up in the idea. Spain is in crisis? What a shame, but I'm going to go ahead. I began my process a while ago. People think that migratory processes are spontaneous and 'off the cuff'. That's not so. We see it a lot with the Libyan case. Because of the Libyan crisis lots of new immigrants are arriving in Lampedusa?² No. The country was acting as a buffer, which was handy for the EU, because it could hold back people that had come from elsewhere some time back. And it is those people that were already in Libya that are now continuing their journey to Europe. It's not that they are setting off as a consequence of the Libyan crisis. They had decided to leave a long time before. There are Libyans, Sub-Saharan, Algerians, and Tunisians. There are frivolous views about migration that treats migration as spontaneous. It is not, and people weigh up the pros and cons of migrating when they begin the migratory project. (...)

I: In the Spanish case do you think that the continuation of migration responds to previous immigration by family networks? Or is because people hope to gain employment – for example in the underground sector? Or it is both?

MJ: Before we were in the first phase of the process, which is the arrival of individuals. Individuals come seeking work. Immigration is huge and is massively labour migration. The figures show that migrants make up 12 per cent of the population registered with the local authorities. But migrants make up *10 per cent* of all social-security contributors.

I: Is there a figure for how many migrants are documented?

MJ: No. That's the million-dollar question. It will never be possible to find out.

I: Why not?...

Mj: The data from the "padrón" [municipal record on inhabitants] is blurry – not exact because it includes people living here or who lived here and have left. There can be duplications: people that have registered in two different towns. Town Halls are interested in keeping them on the register because it helps them receive grants from the central authorities, etc. People might have returned to their country, or gone to another EU country. People may have died. The padrón gives you an insight but not an exact one. Social-security contribution is, however, an exact indicator. And if they are registered with the Social Security, they are regular.

I: Any idea of what proportion of migrants pay social security contributions?

The vast majority of immigrants are wage earners. The Spanish model has been to attract wage earners. We didn't want self-employed or professional persons. There has been a shift in this regard as a result of the crisis, particularly in construction, with immigrants starting up their own small refurbishment businesses when they lost their job. In the first phase individuals arrived clearly looking for a job. Now we are in the second phase in which these individuals bring their families or create a family here. Here the migratory mechanism is not going to be work but family reunification. The new regulations that came into effect on the 30th April regulate this [matter] in a much more sophisticated way. This is important because, like in other

European countries, now it is likely that the biggest source of entry will be through family reunification: not because labour migration has been consolidated but because we are in crisis. (...) The third phase that will be crucial is that these families will form communities and there we are talking about integration. This is already happening: in the ACs with a large [immigrant] population – Madrid and Catalonia – communities are already forming: in Madrid, Ecuadorean and Romanian; in Barcelona, Pakistani communities. Bear in mind that immigration in Spain is very [geographically] asymmetrical.

I: ... Does the fact that the reunification stage coincides with the crisis lead to any tensions? I understand that reunification was a controversial subject during the recent reform of the Aliens Law.

MJ: That's quite right. I'd like to say that for Comisiones Obreras, family reunification is a fundamental right, because article 36 of our constitution talks about how public powers shall promote the social, political and economic protection of "the family". It doesn't say "the Spanish family"; it says "the family" -in general. Article 36 is not a fundamental right. It is one of the so-called "guiding principles" of the Spanish economy but not a fundamental right. But article 36 cannot be understood without article 18, which is a fundamental right and states that all persons have the right to privacy and a family life. So for us, reunification is a fundamental right. And, nearly as important, it is a fundamental factor in integration. So for us its importance is very clear. That said, we feel that the PSOE government made the following mistakes in its 2009 legislation. Firstly, it took a long time – four years – after taking office before it reformed the Aliens' law. Work started on the new law in 2008. A long time! Even though it had taken the previous law (8/2000) still in effect to the Court of Appeal. There is a bit of a contradiction there.

I: Why did it appeal against the 8/2000 Law?

MJ: Because it understood that the law was anti-constitutional...

I: Why?

MJ: Because if ignored fundamental rights. In Spain we have had several laws [draws a pyramid]. We've had only two proper [Aliens'] Laws, because all of these are reforms of this Law [4/2000]. This law was the famous progressive and pro-integration law that lasted a few months until the PP won a [majority] in the elections and returned to the spirit of the 85 Law: a repressive police-based law. What the 8/2000 Law does is establish between two types of foreigner: regular and irregular, and fundamental rights are only to be enjoyed by regular. The lack of constitutionality of this was obvious because the ombudsman had [successfully] appealed against this in 87, a decision in which the Constitutional Court confirmed that foreigners also enjoyed basic freedoms.

I: Is it possible that the second 2008 law also was a response to the strike in El Ejido?

MJ: No because the El Ejido catastrophe took place in January 2000. And the 4/2000 Law came into effect in February. I don't think [El Ejido] was so relevant. At that time Spain wasn't really a country of immigration. It started becoming country of immigration in 2002, when the Ecuadorian model was consolidated. Nearly 500,000 Ecuadorians came to Spain in those two years. There still wasn't a migratory pressure. In the summer of 2000, the government, in order to justify changing a Fundamental Law – which is important because it provides the basis for fundamental rights – filled the television news with images of immigrants arriving in “pateras” (small boats). The image of the small boat arriving began in the summer of 2000. The government was preparing public opinion in order to introduce the new law.

I: On state TV?

MJ: On all of the channels. ... The patera has never been the way of reaching Spain. It is a mere anecdote in terms of migration into Spain...

- I: There are more immigrants arriving through airports...
- MJ: Right, Barajas (airport). So at that point I don't think either the violence or the wildcat strikes in El Ejido was important in terms of the Law introduced. I call them wildcat strikes because [unclear].
- I: Obviously much of the immigration coming through airports is Latin American...
- MJ: Basically yes...
- I: Do you think there is interest in encouraging immigration from certain regions before others? Or is this not so? I'm asking because sometimes the view is shared that Latin Americans have a culture closer to ours...
- MJ: At a certain point in time, under the Aznar governments, a choice was made to focus on Latin American migrants instead of the traditional labour group brought here: Moroccans. This was when relations with Morocco got harder – the dispute over Parsley island³ – and Morocco holds a lot of keys that affect us a great deal: among them control of clandestine immigration via patera. An image was created in which the Latin American immigrant was better than the African immigrant, which is a lie. However from a labour-market point of view Latino migrants did at that time offer a big advantage: they were totally new to the Spanish job market. They didn't know the market or mechanisms, whereas the Moroccan immigrant, who was the first to reach Spain, already knew about collective agreements, unions, wage demands, industrial arbitration. The Latin American was totally new to these things. Their arrival was justified according to certain parameters: religion, culture, language. The Latin American immigrant is easier immigrant for our society. (...) As a parenthesis, they tell us that the Spanish worker has no mobility. However in recent years thousands of Spaniards have done grape harvesting in Bordeaux (...) and gone to pick tulips and fresh flowers in Holland. How come a farm labourer goes from Granada to Holland but not to Huelva to pick strawberries? People are mobile when there is an incentive, where there are

good working conditions, where there is good knowledge of labour conditions. End of parenthesis. The first to come to do agricultural harvesting was the Moroccan, with a lot more in common with the Spanish worker than us Spaniards wish to recognise: the same idiosyncrasies, the same farming culture in certain segments, the same resistance to weather conditions, which are very similar, similar gastronomy even, and living only fourteen kilometres away. They represent our natural immigrant worker. What happened, however, was that the Moroccan immigrant became perceived as a 'veteran'. They create their immigrants' associations, their social networks, association networks, they join a union. Hundreds of our advisors in CITE are Moroccan and they are the most veteran.

I: How many immigrants are there in CCOO? Are there figures on the different nationalities in the federation?

MJ: We don't have information on different nationalities. We have 1.2 million members, of which 6 per cent are foreigners. We are the Spanish organisation with the biggest number of foreign members.

I: Are they normally organised through CITE?

MJ: No. CITE is a specific union instrument for a new union scenario. Its initials stand for "Centro de Información para el Trabajador Extranjero" [Information Centre for the Foreign Worker]. CITE deals with issues related to the 'e' for 'extranjero' [foreigner]. If the foreign worker – regular or irregular, member or non-member – comes with a *labour* problem, related to their payslips, the issue will be dealt with by the federation in the corresponding area of [economic] activity.

I: Has that always been so?

MJ: Yes, always. CITE is an instrument related to alien status: papers, residence, regularisations, deportations, family reunification, nationality, naturalisation, administration, training, information and advice *in aliens' issues*. If the worker

has a problem with their payslip or not being paid overtime, and there is a recognised labour relationship, they have to go the branch of their economic area of activity. (...) We understand that the foreign worker is more vulnerable because their legal status conditions their labour status. (...) I was saying about the strawberry harvesting season. For this they started bringing in Ecuadorians. They said that they have the same culture, language, even that they are catholic. This is a unique aspect of Spain where exploitation has always been done to [other] catholics. It's curious that religion is a factor that aids exploitation! The Aznar government signed a series of bilateral labour-migration agreements with countries that are "naturally" providers of immigration: first, with Morocco, and then agreements were signed with countries in the Americas...

I: Did these bilateral agreements involve a series of issues – not just immigration?

MJ: You have two types: those including everything or the poor type. You can have labour migration agreements which incorporate labour management but also admitting deportees. And you have the poor agreements, which is what have been signed with the black countries -African countries. These are repatriation agreements and only include the bad aspects. They say you take the foreigners which I understand are yours, and no problems are raised...

I: Do the agreements not include labour quotas?

MJ: No, these are for repatriation – of irregular migrants, of the deported. I send you back the immigrants I intercept in small boats or dinghies. There are no quotas agreed on or anything.

I: What do the African countries get in return?

MJ: They get cooperation and development aid.

I: Is that part included in the agreement?

MJ: No, no, that is negotiated elsewhere. Bear in mind that Spain could not navigate in Africa. It has no consulates in much of it. Our consulates are spread out in Latin America, in particular, and North Africa. Black-African migration in small boats begins – but of an insignificant size. There are hardly any blacks in Spain. If you look at the statistics there is hardly any black population in Spain. But the image of the dinghy creates concerns, or it forces us to be concerned, rather. One of the first measures carried out by [PSOE Foreign Minister] Moratinos was to create consular links in black Africa in order to establish surveillance points, and to obtain controls. They say that if you control your citizens, you will be able to access Cooperation and Development Aid. It is never put into writing as such. It discourages states from recognising that a person is their national subject if they are suspected to be such. Obviously if I do that I would expect to receive something in exchange.

I: With Morocco are agreements on border control included within wider bilateral agreements on fishing rights and other aspects?

MJ: That I don't know about. It could be the case. When Morocco gets annoyed with Spain it drops its obligation to accept those that have been expelled or returned – which has been a problem for Spain. When Morocco is angry with Spain, it stops controlling its coasts, and that is a problem for Spain. We are therefore indispensable neighbours to each other. By the time Spain had signed agreements in Sub-Saharan Africa, it had already signed agreements with Morocco, first, and then the Dominican Republic, Ecuador and Colombia. Agreements were signed with Poland and Bulgaria but these are not part of the EU. They are about to announce new agreements with African countries; probably Senegal and the Ivory Coast, but these have not been published. Some of these agreements have been concluded – such as with the Dominican Republic. At one point Ecuadorian immigration was promoted, and this was justified on the basis that it was an easier population for the labour market. No, it is a more inexperienced population with less social abilities for a labour market they don't know about. They come conditioned by having to

borrow money in Ecuador to finance their migration project. Later, strawberry producers started requesting 'polacas' [Polish women], not 'polacos' [Polish men or Poles in general]. The supposed shared language, culture and religion of Ecuadorians was forgotten, because the polacas are European. We are talking about a process of *substitution* by a more contingent, greener and more exploitable labour force.

(...)

I: In Catalonia I have heard the opinion that Latin American migrants have been given a preference because they are native Spanish speakers and thus less likely to want to speak Catalan. Do you think such preferences could explain the recruitment policies of the central State?

MJ: No, this is not the case. Not at all.

I: I'm not saying it is my view...

MJ: Because if we talk about the ability to integrate, which myself and CC.OO. don't believe in, it could be said that people from other regions are not catholic, which would be a disadvantage, unlike the Latin American population which is strongly catholic. If you start from the premise that religion helps integration, which personally I don't share, then Latin Americans would be seen as a less conflictive social group, because there is no building of mosques, for the clothing worn, because of discrimination against women that could supposedly take place. The Latin American community, although it is Spanish speaking, has shared cultural characteristics. But we don't share the discourse described.

I: What do you think have been the successes in immigration policy in recent years?

MJ: To answer this question we are assuming that there has been an immigration policy. You are assuming that there have been immigration policies. (...) If by

policy we mean an analysis of the social situation, setting action objectives in relation to this reality, and providing the means to satisfy these goals, in Spain there has not been an immigration policy. This process has not been carried out.

I: Not even with the current government?

MJ: Of course there was a change after 2004, and it was fundamentally because of the new model of social dialogue introduced regarding immigration matters.

I: What was that new model?

MJ: You have Tripartite social dialogue, involving government, employers and unions, in which social and labour issues are dealt with (...). When Rodríguez Zapatero won the elections in 2004 his government reactivated social dialogue. Social dialogue is all well and good, and had taken place previously, but its success depends on the will for it in the government and the culture of dialogue that [the government] has. We have had governments uninterested in social dialogue. They give it token importance. In 2004 Zapatero created a national Round Table for Social Dialogue on labour-related issues with specific round tables on labour-market reform, discussions on Social Security, on pensions, and *one* on immigration. The round table on immigration produced Royal Decree 2000/393 that develops the Aliens Law, which was passed by consensus between the government, employers and the unions. The government even allowed taking the reform to Parliament, which it didn't have to do, and all of the [parliamentary] groups voted in favour of it. The government was able to brag that it had enjoyed full backing to manage flows, thereby creating the basis for a policy.

I: Are there never disagreements between employers and unions on [immigration] issues?

MJ: Yes, of course. There is a class tension, which is logical and acceptable, let's not kid ourselves, between the employers' goal of increasing the labour

supply in order to be able to regulate working conditions more. As an employer I am always going to want to have available a larger stock of workers than I really need. This is common sense. It's market economics. And there is tension from the unions that believe that immigrant workers [are needed], of course, but only those that are required by the labour market – in order to avoid substitutions.

I: You were saying before that family rights were important also...

MJ: Careful. Family reunification is not a labour route [of entry]. This is important because today some governments and some discourses maintain that family reunification should be treated as being the labour route. No. (...) There has even been talk of introducing a yearly quota for family reunification. If we had that, and there were not jobs, you would not be able to bring your child here. The Popular Party, if it gets back in office, could try to apply this.

I: This is not the position of employers' associations?

MJ: [Long pause]. Not in those terms. But in the 2009 reform of the Aliens' Law carried out by the PSOE, employers managed to restrict reunification of parents, not children, which is a farce because grandparents don't come to Spain, and have never done so. It was a message aimed at public opinion that we are going to stop reunification. During the negotiations on regulation employers did have a tougher stance regarding some requirements for reunification. It was our understanding they should be more flexible to aid the wellbeing of the foreigner. Employers were tougher and more unambiguous. The current regulations were approved by consensus. They came into effect on 30 June (Royal Decree 7.7/2011) and are just being tested out. [...] They regulate *everything!*

I: You mentioned that the government had acted [over reunification] based on public opinion. How would you describe the evolution of public opinion towards migrant labour?

MJ: Lorenzo Cachón [of the Permanent Observatory for Immigration] developed an interesting thesis. He said that the Spanish model of alien affairs was “ISA”: Irregularity – as an essential component of our model; Segmentation – in different jobs but also socially between Spaniards and immigrants and between regular and irregular immigrants; and “anti-pedagogy” (...) - a failure to explain things adequately. Cachón defends the idea, which I support, that the political, public and institutional discourse in Spain has been deeply anti-pedagogical. That means the authorities have never spoken well of immigration. When they discuss the subject, they describe it negatively, in some cases linking it with crime, in other cases with unfair competition, in other cases as an abuse of the welfare state, in other cases as a loss of identity. They never talk about immigrants’ contributions to GDP, of their national insurance contributions, or their demographic contribution. The public discourse has always been negative. Why? Because electorally this discourse will go unpunished because foreigners do not vote. And I can pick up votes, as we have seen in some ACs in the latest elections, hardening [political] discourse [on immigration] in those ACs where foreigners cannot vote. If you notice, in the Madrid region, the discourse against immigration has been very soft because a large majority of foreigners in Madrid do have the right to vote – whether they exercise this right or not.

I: Why exactly is Madrid different?

MJ: Because the foreign population in Madrid is mostly from the EU. They are mainly Romanian and secondly latinos, who already have Spanish nationality, and can vote, or are from countries that have signed agreements allowing their citizens to vote in Spain in local elections. For that reason PP’s discourse in Madrid is completely different from the Catalan PP, because in Catalonia the [foreign] population is mainly Moroccan and is never going to vote because it can’t. (...) So there has been no attempt to explain the positive aspects of immigration. And this takes place in a country that has had no experience of large-scale foreign residence. If I hear a purely negative discourse on immigration, I perceive immigration negatively. The CIS monthly barometers show that the four main problems identified in Spain are now the

economic situation, unemployment, the politicians – which for me is a lack of political culture, befitting a country that has come out of dictatorship and that is lacking political culture. What is bad is not politicians and political parties but corruption, which is a different phenomenon. Finally, there is immigration.

I: It's gone down in the ranking...

MJ: Mind that when ETA declared a ceasefire, immigration became the number one problem. It is always among the four horsemen of the apocalypse: terrorism, housing (...) and they all just change places...

I: How would you account for the fact that immigration has slipped down the ranking with the crisis?

MJ: It's still in the top four. Obviously in a situation of crisis the economic situation and unemployment are much more important, but the worrying thing is that immigration is still there. All of macroeconomic, microeconomic and cultural factors, all of the economic studies by the government, by the Caixa de Catalunya and BBVA foundations⁴, tell us that immigration has been generally *positive* for Spain. However, Spaniards' perception is negative. Why? Because of this political discourse, a discourse backed up by the media discourse. If you look at the CIS survey question about which factors have "affected you personally" immigration falls to [problem] number twelve. Javier De Lucas (...) the ex president of the Spanish Commission for Refugee Aid (CEAR) says there is "an abyss between reality and perception". (...) The La Caixa report is crushing. Immigrants are perceived as "abusers" of public services. That is the view of the average Spaniard. The La Caixa report published in April is devastating in this respect.

I: What is the perception of the grassroots of the union movement? Does it share these average views?

MJ: I hope not. We are a reflection of the society that we live in. We are neither better nor worse. Obviously we have better methods of analysis that allow us

to see things more clearly, but it's true that in some sectors among the rank and file we can see similarly negative attitudes to be honest.

I: Are there internal tensions in the unions because of this?

MJ: No. You hear comments like “foreigners get free meals and I don't” – the typical urban myths. “Foreigners get council houses and I don't”. No, they get council houses because their earnings are lower than yours. (...) The La Caixa foundation has shown clearly that this is not true. (...) You get more poorer layers in Spain because of immigration, and because benefit entitlements are calculated in relation to proportional income some autochthonous people stop being eligible for benefits, which go to newer groups of the poor [meaning foreigners]. Who do I see getting a free meal in the canteen? A Latin American girl? Who do I see getting free books at school? The Moroccan kid. At heart the failure is that of the social state, because in years of plenty we had a record number of national insurance contributors, we didn't adjust benefits to the expanded population. In the Madrid Community there was an exponential growth in population and a ridiculously small increase in health and education spending. This led to saturation in schools and the identification made between schools with immigrants and being poor quality. Working class people made an effort to take their children into privately managed schools.

I: A study I read on Ireland, which has a comparable immigration history to Spain, concluded that the neoliberal model encouraged the view that immigrants were a problem because there is more competition for services...

MJ: Immigration has always been seen as a problem here. Always. First it was associated with crime. Here there was a regional representative of the government that issued a press statement saying Columbians “pickpockets”, Peruvians “airport thieves”. He did a ranking of nationalities and associated crimes. It was disgraceful. Later the idea was that foreigners were unfair competition in the labour market. I remember that discourse perfectly. They said this was because immigrants earned less. That is not true. It is just that

they have worked in employment sectors where the average wage is lower. (...) Then “the foreigner attacks our identity”. In Catalonia this discourse can be seen clearly with CiU or Barrera, the historic leader of Esquerra Republicana who was particularly hard on immigrants (...). And now we are in a phase of perceiving the immigrant as someone who monopolises social services – a competitor for social services. Although immigration has always been seen negatively, but curiously immigration in Spain has always been a great success – both economically and socially. We have had a mass influx. The Spanish population has been incredibly sensible. This is not often pointed out. (...) We became the second biggest immigration destination in Europe in absolute terms after Germany, and the second in relative terms after Luxemburg – most of whose immigrants are from the EU, working in banking, etcetera (...) Migratory processes that in other countries have taken decades have taken place here in five or six years. The impact in Spain has been splendid. Here there have not been racist outbreaks. There were incidents in El Ejido, Terrassa.

I: El Ejido was a dramatic outbreak, was it not?

MJ: Yes, it was serious but fortunately it didn't go beyond being a one-off event. Here the extreme right have not managed to articulate a political project using racism and xenophobia – as has happened in other European countries. There has not been one single racist incident in the workplace. Where are frictions emerging? In the public services, which are the authorities' responsibility. That's where there are frictions, where the immigrant is perceived negatively, as an unfair competitor.

I: Is it not possible that the lack of strong far-right parties in Spain is because they are discredited after the experience of fascism in Spain?

MJ: These are questions that go beyond my remit of analysis. I have my own personal opinion, which is that the ideological spectrum of the Popular Party is very wide. Its vote goes from the centre right to the extreme right, including the right and right extremists! So there is a 'tactical vote' that brings together a

spectacular mass of vote. I know of people in the PP that are clearly extreme right. There has been a row in the Madrid region, where extreme right groups got to dominate some local village branches of the PP. In a summer course on immigration I asked the first [Secretary of State for Immigration and Aliens Affairs] Fernández Mirando if his party had absorbed a section of the extreme right, and he said that that was “good”! I don’t know whether to think it is good or not. He said it was good because the PP decreased the impact of the far right. [But] that is why they give a nod to xenophobic discourses in certain geographical areas.

¹ The Spanish term provided is “repeca”, which could also be translated as a “repeat exam” or “retrial”.

² The crisis referred to is that which began in response to the revolution in this and other North African countries at the beginning of 2011.

³ In 2002 when Moroccan soldiers occupied a very small uninhabited island near to its mainland (“Perejil” in Spanish; “Leila Laila” in Arabic), Spain took the island by force, imprisoning the servicemen.

⁴ La Caixa de Catalunya and BBVA are large commercial banks.

Appendix 9.4: List of figures and tables

Figures

Chapter Four:

Figure 4.1: Catalans' relative preference for different territorial models

Figure 4.2: Long-term evolution of legal foreign residence in Spain 1975-2007

Figure 4.3: Number of regular & registered foreign residents 2000-2011

Figure 4.4: Regional origin of foreign population in Spain 2012

Figure 4.5: Evolution of foreign residence in Spain by regional origin 1975-2007

Figure 4.6: Evolution of foreign residence in Spain by nationality (largest 20)

Figure 4.7: Evolution of foreign employment by sector (1000s of workers)

Figure 4.8: Regional origin of foreign population in Catalonia 2011

Figure 4.9: Evolution of foreign residence in Catalonia by nationality
(largest 20)

Chapter Four:

Figure 4.1: Numbers & types of returns of irregular migrants 2000-2008

Tables

Chapter Four:

Table 4.1: Sectors of employment of migrant & non-migrant workers 2010

Chapter Five:

Table 5.1: Bilateral labour & control agreements between Spain & countries of origin or transit 1999-2009

Table 5.2: Spanish regularisation processes & numbers accepted 1985-2011

Chapter Seven:

Table 7.1: Evolution of employment of foreign workers in construction

Appendix 9.5: Abbreviations

AC: Comunidad Autónoma (Autonomous Community)
BEO: Boletín Oficial del Estado (Hansard)
BNG: Bloque Nacionalista Galego (Galician Nationalist Bloc)
CC.OO.: Comisiones Obreras (Workers' Commissions)
CEAR: Comisión Española de Ayuda al Refugiado (Spanish Commission for Refugee Aid)
CEOE: Confederación Española de Organizaciones Empresariales (Spanish Confederation of Employers' Organisations)
CEPES: Confederación Empresarial Española de la Economía Social (Spanish Business Confederation of Social Economy)
CEPyME: Confederación Española de la Pequeña y Mediana Empresa (Spanish Confederation of Small and Medium-sized Enterprises)
CES: Consejo Económico y Social (Economic and Social Council)
CGT: Confederación General del Trabajo (General Confederation of Labour)
CIG: Confederación Intersindical Galega (Galician Trade Union Confederation)
CIS: Centro de Investigaciones Sociológicas (Centre for Sociological Research)
CITE: Centro de Información al Trabajador Extranjero (Information Centre for the Foreign Worker)
CiU: Convergència i Unió (Convergence and Union)
CNC: Confederación Nacional de Construcción (National Confederation of Construction)
COAG: Coordinadora de Organizaciones Agricultores y Ganadores (Coordinating Committee for Agricultural and Livestock Farmers' Organisations)
DDG: Deputy Director General (undersecretary)
EC: European Community
EEC: European Economic Community
EPA: Encuesta de Población Activa (Active Population Survey)
ERC: Esquerra Republicana de Catalunya (Republican Left of Catalonia)
ETA: Euskadi Ta Askatasuna (Basque Country and Freedom)
EU: European Union
EU-15: Member states of the European Union before new-accession process in 2004.
Frontex: European Agency for Border Management
FSII: Foro para la Integración Social de los Inmigrantes (Forum for the Social Integration of Immigrants)

ICV: Iniciativa per Catalunya-Verds (Initiative for Catalonia-Greens)
IDESCAT: Institut d'Estadística de Catalunya (Statistical Institute of Catalonia)
IMERSO: Instituto de Migraciones y Servicios Sociales* (Institute for Migrations and Social Services)
INE: Instituto Nacional de Estadística (National Institute of Statistics)
IU: Izquierda Unida (United Left)
NATO: North Atlantic Treaty Organisation
NGO: Non-governmental organisation
OECD: Organisation for Economic Cooperation and Development
OPI: Observatorio Permanente de la Inmigración (Permanent Immigration Observatory)
PCE: Partido Comunista de España (Communist Party of Spain)
PECI: Plan Estratégico de Ciudadanía e Integración (Strategic Plan for Citizenship and Integration)
PNV: Partido Nacionalista Vasco (Basque Nationalist Party)
PP: Partido Popular (Popular Party)
PPC: Partido Popular de Catalunya (Popular Party of Catalonia)
PSC: Partit dels Socialistes de Catalunya (Socialists' Party of Catalonia)
PSOE: Partido Socialista Obrero Español (Spanish Socialist Workers' Party)
PxC: Plataforma per Catalunya (Platform for Catalonia)
SFRII: Fondo de Apoyo a la Acogida y la Integración de Inmigrantes (Support Fund for the Reception and Integration of Immigrants)
SIS: Schengen Information System
SIVE: Sistema Integrado de Vigilancia Exterior (Integrated System of External Surveillance)
SMEs: Small and medium-sized enterprises
UCFR: Unitat contra el Feixisme i el Racisme (Unite Against Fascism and Racism)
UdP: Unió de Pagesos (Farmers' Union)
UGT: Unión General de Trabajadores (General Workers' Union)
VIS: Visa Information System

* IMERSO has been renamed the 'Instituto de Mayores y Servicios Sociales' (Institute for the Elderly and Social Services)