

Invisible Workers

By Miquel Fernández

Introduction

With international migrations what counts is not what foreigners are but what they are not: they are not nationals. In this respect, the issue of legality is a key issue: the current migratory systems and their state regulation continually produce situations of structural, persistent, “irregularity” and, therefore, now introduce a fundamental breach between those that are “regular” and those that are “irregular”, which has numerous personal, social, political and labour implications and consequences.

In these pages I intend to offer a view of the relations of social and local dependency attributed to part of the Catalan population, that which is not legally or administratively Spanish and specifically that which, in addition to not being national, is in a situation of administrative irregularity.

When I talk about dependencies I am being very descriptive and only refer to the specific relations on which non-nationals in a situation of irregularity depend, which distinguish them from the rest of foreigners and, even more, from the rest of the population of working age. Here to distinguish means to distribute unequally the opportunities to pursue esteem and social recognition or, in other words, to preserve personal dignity.

We cannot – and do not claim to - really deal with the causes or consequences of illegal immigration in these few pages, although I do

believe that it should be pointed out that we can find this wide range of explanations between two explanatory extremes. In accordance with Ermano Vitale (VITALE, E. 2006), I find it as imprecise to reduce the self-acquitting explanation of illegal immigration to the trafficking in people carried out precisely by dark organizations of unscrupulous foreigners, as that other position which reduces the explanation of the phenomenon to a return to slavery. The complexity of the phenomenon studied can be found between these two ideal types of explanation.

The object of the analysis has therefore been that of the foreign population in a situation of irregularity¹. This concept refers to all those people resident in the Spanish state who are not nationals and who, for a specific period of time, do not have permission to work or to reside in national territory legally. It is in this respect that the statement by Miguel Pajares is very relevant, when he warns that “*we should not lose sight of the fact that irregularity has existed in Spain since we have legislation on aliens*” (PAJARES, M. 2004).

Precisely due to its legal and administrative nature, it is not possible to quantify precisely the size of the population in this situation. The latest estimates published in 2007 with data from 2006 maintain that this population represents 280,789 people (RECAÑO, A. and DOMINGO, A., 2006). In December 2006, the number of foreigners with residence permits was 642,829², so this would represent approximately 30% of non-nationals, a figure very similar to that offered by the trade union

¹ For a detailed approach to the definition of this population see the article by Eduard Sagarra Trias “Consecuencias jurídicas de la irregularidad: el extranjero inmigrante irregular residente empadronado trabajando y con orden de expulsión: ¿una nueva situación legal?” CIDOB, 2004

² Data published in the *Anuario estadístico de inmigración 2006* which is published by the Secretary of State for Emigration and Immigration, the Permanent Observatory for Immigration and the Ministry of Labour and Social Affairs.

Comissions Obreres de Catalunya from the consultations formulated by the Information Centre for Foreign Workers (CITE)³.

The witnesses gathered show, for the foreigner, that there are various important consequences of irregularity: it produces dissatisfaction, fear and insecurity. A considerable part of the Catalan population is in a serious situation of social invisibility, vulnerability and exploitation.

This was thus the population studied. This article is the result of the effort made to explain who the *foreigners in a situation of irregularity* are and what the specific dependencies or limitations are on joining the labour market, which by definition is also irregular and known as the *black or informal market*.

I have divided the text into three sections, the first of which, *Social and labour vulnerability*, brings together information and testimonies on the labour conditions of this population. The section *Declassing* gathers information on the socioeconomic origin or the levels of education that this population had before coming to Catalonia. In the last section, *Taking advantage of the irregular situation*, an outline is offered of the dynamics, institutions and social agents which benefit from this volume of people, eminently a labour force, in situations of legal exception.

Social and labour vulnerability

Being vulnerable means being capable of being wounded, capable of receiving a physical or moral injury. This is a quality that tends to be associated with foreigners in an irregular situation. The situation of irregularity is in itself a lack of protection that the state provides to its citizens. By definition foreigners are not citizens in the legal sense and therefore they do not have the same rights. But if we add administrative

³ In particular, according to the CITE, the percentage of the foreign population in a situation of irregularity, according to its calculations based on the services offered by its centres, would be 34% in 2007, according to them very similar to the level in 2006

irregularity to this condition, we find a population with a high risk of suffering from different types of moral injuries and abuses.⁴

Miguel Pajares explains that not all the informal economy is supplied exclusively by the population in an irregular situation, but obviously all of this population which wants to work will have to do so on the black market (PAJARES, M. 2004). The informal labour market is pursued by the state through the Ministry of Labour and Social Affairs, in particular the Directorate General of Labour Inspection, in collaboration with the Ministry of the Interior and the sixth unit of the National Police “Unit against Networks, Illegal Immigration and False Documents” (Ucrif). According to representatives of the Directorate General of Labour Inspection, the new Aliens Law considered “*arrelament laboral*” (proof of settlement through employment) as a measure for collaboration between irregular workers and the Administration, in order to reduce illegal hiring. Starting from this modification, an irregular worker who reports the employer who has hired them illegally and can demonstrate that they have worked in this situation for at least a year, can apply for a permit through what is known as “*arrelament laboral*”.

It is another case when the worker does not report the situation but rather the employer is convicted for employing the irregular population. In this case, the employer and the employees are charged with the crime, and the latter receive a deportation order.

It is trusted that legal mechanisms such as this one will help to curb the situation of Social Security fraud and lack of administrative control. This informal labour market currently represents approximately 20% of Spanish

⁴ We can find a clear example of this in a news item which appeared in El País “Un negrero en Mercabarna” on 19 January 2008 which explained that an employer has been arrested who obliged 3 “illegal workers” to work 90 hours a week for €800. The vulnerability is not only expressed in this abuse but also in the fact that the police did not only arrest the employer but also arrested and served a deportation order on the employees.

GDP⁵. “Arrelament laboral” does not work for several reasons. First, as already mentioned, gaining access to the permit involves proving two years on the census and reporting the employer, demonstrating that you have worked illegally for more than a year.

You have to demonstrate that you have worked in the black economy for one year, but how can you demonstrate that you have been in Spain for two years? To find proof...[...] No, legally no, because if you are not working for them any more... And there is no proof... And a lot of people don't want problems. Until a judge, in a ruling, says “this person has worked for me”. That is proof of settlement through employment. [Ahmed]

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The Labour Inspection trusts in the modifications that have been made to the Law to report illegal hiring.

The means of proof of settlement and the possibilities of collaborating in the fight against illegal immigration networks are generous. Persecution of illegal immigration now tries to police those who use labour in this way. To what extent does it achieve this? We should not be ingenuous. [Inspection]

If we focus on the most vulnerable groups, as Sònia Parella aptly says (PARELLA, S. 2003), we will observe that it is immigrant women in an irregular situation who suffer all kinds of abuses. The conditions of employment of many women who work in domestic service, looking after the elderly, children or cleaning homes or work places, are probably the most unsatisfactory:

The majority of female employers do not respect the labour rights of female workers. Some work 16 hours in domestic service for a salary of between €600 and €800, working from Monday to Saturday lunchtime. They can go on holiday, but unpaid. And they cannot get out of this situation [Isabel]

The abuses of employers are not limited to salaries, but also involve violating fundamental rights, such as holding onto the personal documentation of the female employee.

⁵ As indicated by the trade union Unión General de Treballadors (UGT), in June 2005 in the Spanish state, foreigners in a situation of irregularity are cannon fodder for the informal economy, which already accounts for 23 per cent of GDP (almost 130 billion euros) consult <http://www.associacioamic.com/noticias.php>

*With domestic work, it is common for the passport to be taken from the female employees, for example they ask to go to the doctor and she tells them "you are in an irregular situation so you can't" because I don't want the police to find out. Then the woman gives them a pill.
[Margarita]*

There are various examples but they always revolve around the same indicators: women, foreigners, in a situation of administrative irregularity and with not very prestigious jobs.

There is a lot of abuse in domestic work and the hotel trade. "Look, you, if you sleep with me you'll get a better job" but even if the person sleeps with them, nothing gets better.[Margarita]

And this is not an isolated case. National employees in a situation of labour authority can even request sexual favours from a foreign worker in exchange for providing them with documents to regularize their situation or that of a family member.

A colleague who was doing cleaning needed her husband to come and asked my boss for a letter to help the family reunification and my boss could write a letter of invitation saying that they could offer him work in the hotel. So my boss said to her "how will we work it out?" Or how was she going to thank him for it. And she said "you write the letter and I'll pay for it" and he said "I don't want money, I've got money, I've got enough" and the girl slept with him. He helped her to rent a house and took advantage of her, and she was asking him for the letter until it got to the point that what she wanted was to bring her family, and then he sacked her and she was left without the letter and with the problem of her conscience [Paula]

Or even when it comes to looking for work, there are employers who want to take advantage of this vulnerability, and they intercept advertisements from young women willing to work in domestic service or in the catering trade and they propose work as prostitutes.

[...] I had all sorts of calls: for prostitution and everything, but no...[...] They call you and they say: do you want a cleaning job? It's for a massage parlour. They ask your age, and as I was 23 they seemed very interested. But when they said a massage parlour I thought... and I said no. I didn't even have an interview with that person.[Paula]

Another similar strategy used by some employers is to place advertisements in which they ask, for example, for a waitress and, using ambiguous language, try to hire women illegally for prostitution:

Sometimes, for example, I was looking at job ads and I called one which was asking for a waitress and on talking with them I told them that I didn't have papers and they told me it didn't matter because I wasn't going to work at the bar. The work was in a club and they told me that it was "dealing directly with the public" and I told them "what do you mean by dealing direct with the public if I can't work at the bar?" and they said that it was a "massage parlour" and then I said no.[Sónia]

These are some of the specific abuses committed against women. In general male foreign workers in an irregular situation share with the women, as can be imagined, low salaries and long working hours which exceed 40 a week. These conditions are characteristic of the jobs occupied by this type of population.

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In catering there is Montxos, chains of restaurants with Pakistanis working without papers. In the summer, which lasts 5 months here, you start at 10, or half past 10 until 4, 5, when you leave the restaurant. At 8 you start again. And you stay until 3 in the morning. How many hours? Almost 15 hours and they pay really badly. More or less ... 800, 850, 900 euros. If there is someone good they pay 1000, for 15 hours. If you have papers, they pay better [Yjub]

Another of the expressions of the vulnerability imposed on this population due to its illegality or allegality⁶ is demonstrated for example in the distant relations, when they are not of rejection and fear, toward the public authorities, national or autonomous police:

Yes. What frightens me the most... is when you're going down the street, you see a policeman and they ask me for my documents. It never happened to me. I always realized that sometimes they cause problems... but they have never asked me for them [...]

Yes, once playing volleyball they asked some men for their documents. Not me, because I was playing with some ladies. We pretended nothing had happened, we continued playing..

That. Just yesterday I came across two policemen [...] the autonomous police. And I'm afraid of them. It always happens to me and my husband tells me: you must calm down, but I'm always, always, always afraid, I've been here for 3 years and I'm afraid..[Paula]

Other people who immigrated years ago tell similar stories:

.. I came in the last month of 92, when I came, about to end .., there was a lot of police control at that time, ETA had also announced an

⁶ I will discuss the different categories imposed by the Law on the foreign population in the article...

attack and above all the police was looking for immigrants like a hunter looking for an animal in the jungle.[Yjub]

Those interviewed likewise agree when it comes to describing how employers can take advantage of their administrative situation.

It was her children [those of the woman that the women interviewed was looking after], who noted that I had just arrived here and they wanted to take advantage, to stop me from getting another job.. I thought that there wasn't much work, so I held on to what I had...[Paula]

Many of the people who could not regularize their situation in the extraordinary process of 2005 may have been two, three or four years in a situation of irregularity⁷.

I have been working on the black market for 3 years [...] I had a boss, the one who is making the contract for me now, who as I was working illegally paid me the same as the Spaniards, and he gave me the part corresponding to Social Security. But most bosses don't want to pay the salary, they exploit like where I am now. I am working without rights. [Idrissi]

The personal circumstances of this interviewee are a result of the bizarre situation to which the design of the Law gives rise. While the employer who contracted him illegally but paid him the part of the salary that should have gone to the Social Security, is carrying out the regularization formalities, the employee cannot work legally (among other requirements, it is necessary to demonstrate “*The national situation of employment*”) which means that he has to leave his employer to return to the situation in the labour conditions characteristic of the black market. When asked if, during this time of administrative moratorium, he has the same labour conditions as in the other job, he replies: “*No, they pay me less, there is more exploitation.*”

⁷ It should be taken into account, for example, that if the foreigner has not registered on the census just when they arrived in Catalonia or if, for example, weeks before reaching the 3 years on the census to access a residence permit, the police arrests them and applies a deportation order (which is only enforced on rare occasions, see the report prepared by the “Centre for the Defence and Study of Human Rights”, on 31 May 2005 it had not been possible to enforce 122,238 deportation orders) this fact can delay the administrative normalization process at least another 3 years and a maximum of 10.

Sometimes people take advantage of the irregular character of the workers to threaten them and obtain more benefit from an unfavourable labour relationship.

And in construction, earning €30-40 with 12h days. Above all loading and unloading material. And they threaten to report the workers to have them deported. [Isabel]

It should be taken into account that residence and work permits are unfailingly linked to a contract of employment. To renew permits it is necessary to prove that certain conditions are met, such as for example that at the time of renewal there is a contract in force or a new offer and to demonstrate a period worked and having made contributions to the Social Security for at least six months.

The personal relations between the employer and worker and the legal neglect of the latter can favour intolerable verbal aggressions against the workers:

"I worked for two days on a building site where they didn't call us what we were called, they didn't call us by our names, but rather cunt: "cunt, do this", "cunt, do that", "cunt, pick that up" ...[Azziz]

The situation of vulnerability in the face of the Law for this population likewise allows people not to pay employees regularly.

"There are bosses who owe me 600 euros, a thousand euros. One from Seville owes me a thousand euros, an Arabic one, here, in Barcelona, 600 euros. But you can't report it."

Another example of this use of irregularity is the way of dealing with occupational accidents involving these workers. This is translated by a colleague of a worker "without papers":

He has been working for the same number of years without papers, and he had a problem: he had an accident at work. He works with a Moroccan, he took him from work to his house and he had broken ribs and damage to his foot and his spine. He left him at home: "let's see what we can do, an agreement: They took him to hospital, then, and when they call from the hospital they say: we don't know him at all. He had, if I stop working... there were people who didn't care about him... And now he's gone to court with this one who says he doesn't know him. It's a case like many others, as you don't have papers you can't do anything. At least he has witnesses to demonstrate that he has worked...[Amenay]

Moreover, the more serious situations of occupational accidents which end with the death of the worker are also taken advantage of by the employers responsible.

Then there is a Pakistani employer who doesn't know the law here, that a dead person without papers has the same right as one with papers. So they think that it is punishment, to give money... What do they do? Then when there is work they take someone they know and they send the corpse to Pakistan and the widow doesn't get anything. [Yjub]

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Declassing

Another of the characteristics of an important part of this population is that their educational levels or the poor family socioeconomic situation is paradoxically what drives them to leave their countries with the hope of making better use of their personal and family resources. Once here, this population suffers especially from declassing, that is to say they work in jobs below their level of education or qualifications.

The data indicate that the declassing of labour for the foreign population in Spain is 43% (while that for nationals is 24%). When talking about educational levels, it is likewise remarked that almost 30% of the foreign population has higher education, compared with 25% of nationals⁸. It is for these reasons that the hope of a large part of this population is to be able to develop their abilities and for these to be taken advantage of. We have an example of this in the testimony of one of those interviewed.

Since I have my papers I work as a welder and I'm happy. I need one year to finish the degree in Economics that I left in Fès but I am not sure whether I want to get my credits recognized and finish it or study something to do with the work that I am doing now. For the moment, I work 10-hour days and when I finish, between Sense Fronteres [the association in which he participates] and everything else, I don't have the strength... but next year, maybe. [Amenay]

⁸ International migration prospects. OECD, 2007. Report cited in the press "La mitad de los inmigrantes trabaja en España por debajo de su calificación". La Vanguardia, 26/06/07

We thus find that many of the immigrants interviewed have suffered or are suffering from a social declassing in so far as their resources are undervalued in the society where they have arrived. One of those interviewed who is currently working as a mediator in a centre for minors, explains what his studies are and his bizarre legal situation:

After finishing secondary education I studied Biology, I graduated in general, chemical and genetic Biology. [Ahmed][...]

And when I was paid they told me that they like my work and that if I could wait a little they would find something. And they called me from the Foundation and they proposed a job translating in schools for Moroccan families. But they told me that they are going to give me a contract, because at first they didn't want to give me a contract but I needed it for my renewal. They told me that we are going to find a way for them to hire me, but working in this. [Ahmed]

As the person interviewed explains to us, although he works in an administration as a social worker, his work permit is still linked to a contract as a distributor of advertising material. Given that this situation pre-establishes labour niches, mostly determined by the “*Catalogue of vacancies difficult to fill*”,⁹ part of this population with – or without – higher education does not have the possibility of accessing other jobs.

It is difficult. My experience was a little different because I don't have any experience in construction and it is the one with the most ... the best opportunity existing. But construction workers, but I don't have any experience. Or people from my town who could ...[Ahmed]

We can observe another case of declassing in this woman from Brazil who is currently a waitress in a Barcelona hotel, in which the distance between her educational resources and her current position are far from understandable:

I graduated in Business Administration and Psychology in Brazil I have a PhD from the US, from the University of Columbia in New York. [To gain official recognition of the qualification] They asked me for 4 million pesetas because it had to go to an official translator. The thesis is 800 pages at 5000 pesetas each page, and in 94 this prevented me from gaining official recognition for my PhD. [Paula]

⁹ As indicated on another occasion, work permits for immigrants require the assessment of the “*National Employment Situation*”, starting from which, the “*National Employment Institute*” prepares the “*Catalogue of Vacancies difficult to fill*”

It should be taken into account, as some of those interviewed recall, that to undertake a migratory process requires minimum resources on departure and that, by definition, this represents a sort of “natural selection” of the population arriving in Spain.

What do you think? That a labourer from Pakistan can come here? He has to have 12 thousand euros. The people who come here are the middle class. And people from the middle class do not work with their hands, they hate that: tailor, painter, we hate work in the field because it means work and another word..., it means hatred. All the middle class works in their business, schoolteacher, hospitals, civil servant, their offices, their land, their business... and sometimes they work with their hands but it is their land, or their shop... they are the owner. No Pakistani labourer has come. [Yjub]

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Taking advantage of the irregular situation

One of the common problems of this population is precisely the uncertainty in which they see their life journeys once inside the borders of Spain and sanctioned by the Aliens Law as “illegal immigrants”. This situation is produced by a restrictive and even – in some articles – anticonstitutional design¹⁰ of the Law and its regulation, combined with a certain laxity or arbitrariness in its enforcement.

The restrictive regulations have not succeeded in completely cutting off the flow of immigrants, above all in those countries with more permeable borders and less rigid controls, and they have contributed to producing labour supply lacking any kind of protection, something paradoxically attractive for some segments of the productive system. [...]Formally strict rules on immigration are also combined with certainly lax controls in Japan, in so far as many small companies would run the risk of going bankrupt if they could not resort to the work of irregular immigrants (Ambrosini, p.124)

On this subject, the main union leaders share the same opinion. An example is the view of Abdelkader, coordinator of the Association of Mutual Aid for Immigrants in Catalonia (AMIC) of the trade union Unió General de Treballadors (UGT)

Some sectors of employers are interested in the volume of the informal market" [...] the informal labour market is never going to disappear.

¹⁰ El TC anula tres artículos de la ley de Extranjería. La Vanguardia. 09/11/2007

A similar opinion is held by the leader of the Immigration Secretariat of Comissions Obreres, Ghassan Saliba, who maintains that the informal labour market, supplied by the population in an irregular situation, was taken into account and favoured by the government of the People's Party to try to increase the competitiveness based on irregular labour. According to this leader, the PSOE's strategy has changed the discourse but has not changed in practice.

It is in this sense that we talk about "uses of the irregular situation" as one of the dynamics linked to the design and the application (or not) of the Aliens Law which imposes a quantity and an intensity of limitations or dependencies on the foreign population in an irregular situation.

The situation is described in a similar way by the Labour and Social Security Inspection of the Ministry of Labour:

It may be that it is of interest to always have a margin of informal economy: people who consume and who are paid less money and who produce a lot because they are frightened of being fired, to try to regularize their situation, they are productive and cheap people. But this is on the more macro level. This is growing slowly as regards inspection, not because we don't want there to be inspections. We are approaching European levels...yes, it is one of the priorities: occupational health and the informal economy together with a promotion of stable hiring [Inspection]

Despite this, it is trusted that the Law itself and the competent organizations can stop and report situations in which companies and people take advantage of the wide margin of irregularity linked to a restrictive design of the Law and an endemic lack of resources to apply it.

From the point of view of the illegal immigrant receiving country, it is very clear, they are people who in view of their precarious situation within the state are "cannon fodder": lower salaries, worse conditions and even in a regular situation, they are workers who do what are in principle the worst valued jobs. The Law may have failings but it is a considerable improvement [...] It has its limitations. But it tries. [Inspection]

It may seem paradoxical how all those interviewed, even those who have spent years in a situation of illegality as a result of the Aliens Law, request its fulfilment by all the actors and the institutions involved. As the president of an Association of Immigrants from Pakistan states,

The law does not exist for us. If it has good things, we do not know, we only know that here they pay little, many hours, they pay less and each day less work inspectors [Yjub]

The request for more labour control and more inspections with the aim of preserving the rights of workers is shared by all the representatives of the social actors involved. The main unions agree on denouncing the low volume of inspections

"The Labour Department should put inspectors in each municipality and inspect each week. The inspections service should be decentralized." [Abdelkader]

The same request appears in the resolutions of CCOO but adding the requirement of efficiency of the inspections.

It is necessary to fight against the companies which use illegal immigration. To advance in this aspect, we need to demand more toughness and, above all, more efficiency in the Labour Inspection against the informal economy, which uses workers without permits and without a contract or registration with the Social Security.

The employers involved try to avoid the inspections. One of the people interviewed, who has been more than 3 years in an irregular situation, explains:

Because some bosses say: if you see some strange people like... inspectors you have to hide, do you understand? [the inspectors came] Once, only, and I went up the stairs, working on the refurbishment, I went onto the flat roof and that was it. [Amenay]

Some people interviewed in an irregular situation accused the Administration of being in collusion with some companies

"[I] haven't ever seen any ... [inspectors] But my friends and all that, the bosses know when they are coming, they warn those without papers to go somewhere or not to come on that day and that's it. Sometimes they come and quick: those without papers to the toilet or to the bar [...] Sometimes the inspector is given the number of workers and of cards and that's it, they go. They also advise the workers. If

someone without papers is working with someone else's card they tell him: you're called Mohammed and that's it, if they ask you, say you're called Mohammed and that's it." [Ahmed]

Other people interviewed agree with this description. In this case, moreover, the big companies are accused of taking advantage of the irregular situation indirectly.

Yes, this is the fault of the big companies, which know that these people don't have papers, but to hide it all they had an agreement with a Pakistani company: "give me papers for one person and send another person to a building site". Here you hire one person and with just one person's papers there are 3 people working in 3 places.[...]Yes, on 3 building sites of the same company. And this happens. And they don't care. They say: "we will pay within a few months, because now there are papers from the bank" and then they say: "go away, I'm not paying, because you don't have papers". [Yjub]

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As indicated by the associations of immigrant workers, the increase in the number of inspectors has not solved everything:

"It is all illegal. They [the employer] say: "sign this paper" and the Pakistani doesn't know how to read Spanish or Catalan. The Pakistani is afraid and signs and what does it say? That they have given him a helmet, boots, overalls and everything, all signed. There is no inspection. If there is an inspection the big company knows that it just has to have papers"[Yjub]

In this case, a reduction of the inspection to a review of the employer's documentation can make the inspection completely inefficient. The Labour Inspection denies that the firms are warned and insists that the situation could improve with an increase in the number of inspections.

They could resolve it by having more inspectors. But it is always the repressive channel. The Law is from the previous parliament but the regulation is from the current parliament.[...] Our visits are always without prior warning. There is the idea that we warn them but this is not true. They are subject to the highest fine for hiring illegal workers. €6000000 and they have a surcharge in accordance with what the state has failed to receive as Social Security. [Inspection]

This does not occur just because the volume of irregular workers, generally with tougher work conditions, lower salaries and longer working days, is significant. This situation can also allow other strategies by big companies which, on subcontracting work, know that the small

company hires employees in an irregular situation and can take advantage of the Law in a very specific way:

The situation is very bad in the construction sector. There are many Pakistanis working in companies without a contract. And also terrible. There are very big companies which don't give work directly, they oblige the workers to register or to work for a small company. They give work to the small company which bleeds the workers dry even more. But the big company knows everything. They wash their hands. Now there are more bad things that the big companies, if there is more work, say: bring people without papers, it doesn't matter. And when the invoice goes up more ... almost 50 thousand euros they say: no, you have to show that the person has papers, otherwise, I won't pay. This is a custom in Catalonia. And so like that they don't pay. They have penalized the small companies and they have cheated on the Social Security, but it wasn't like this. It is the big company which has used the weapon to cheat the Social Security. [Yjub]

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Union representatives maintain that although the big companies do not hire illegally, they do know that the small subcontracted companies have workers in an irregular situation.

The big companies subcontract and carry out unfair competition. The employers and the employers' associations turn a blind eye [Ghassan]

The employers' associations, such as *Foment del Treball Nacional*, back hiring in the countries of origin, and in relation to the reports on subcontracting that their members may carry out, indicate that:

Control is difficult with the subject of subcontracting. Illegal workers have even been hired in the administration. There are work inspection mechanisms.

The person interviewed was referring to a recent case which occurred in the Town Council of Santa Susanna, in the Maresme, where the mayor himself had illegally hired a gardener¹¹. The labour inspection agents act on their own initiative but above all on receiving reports from the unions but not through employers' associations.

To end the list of testimonies, we can add another example of taking advantage of the limits of autonomy of the population in these

¹¹ Un 'sense papers' treballa per a l'Ajuntament de Santa Susanna. El Periódico de Catalunya. 31/01/2007

circumstances. It is a question of the butane gas-bottle distributors in the Raval neighbourhood of Barcelona:

“Several friends who have worked [distributing butane gas bottles] since 92, working like slaves, sometimes they are registered to work, but most aren't, they live off tips” [Yjub]

When asked who hires them, the same person expands on his answer:

“No-one. It's Repsol [...] They are still here, but if you ask the gas-bottle distributor who works in the street he will tell you that he is registered, but he's not registered with the lorry, he's registered with his friend's shop, because to renew you have to show the government that you have been registered for 4 months, 6 months, so they pay the Social Security out of their own pocket and that's it. And they live off the tips, they work all day, more in the winter, less in the summer”. [Yjub]

According to the same person in charge of the Association of Immigrants from Pakistan, the administrations do not have an answer for this situation:

“I have spoken with the unions, UGT and CCOO and it's useless, there is no solution.[...] Yes, we have dealt with the Minister of Labour of Catalonia, [Mar] Serna I believe she's called, with the MP and [before] with Josep María [Rañé] and they say they will do something but nothing is done”[Yjub]

Uncertain present, difficult future

So far we have shown that the specific dependencies imposed on a considerable part of the population of our society can determine their daily life. From the testimonies collected, we can gather what the consequences may be, for the organization of society, of an evident backward movement in the labour and social benefits achieved during the second half of the 20th century in Europe.

Along the same lines, it may be paradoxical that all those interviewed basically share the same anxiety: that of the uncertainty with which they look at their labour and personal history. To a large extent this is due to the situation of dependency on a specific law for “them”, for “immigrants”. A law without the democratic guarantees represented by

belonging to a common political community ("us", the state, the nation). It is this community, the one which finally establishes who are the full subjects with equality of conditions with the rest of society, thus producing in this population the feeling of helplessness characteristic of pre-democratic societies.

It is no small matter that this exclusion from the lawful community (of nationals) positions them at the discretion of questions which elude the elements defining all democratic principles: the shared sovereignty of a community of equals.

From a more specific perspective, from the point of view of the ideas of cohesion and social segregation, we should highlight the indeterminacy of these people in the labour market. On the previous pages, we saw that they are mostly in the secondary sectors (badly paid, precarious, with tough work conditions, with few provisions and little social prestige), a circumstance which accentuates the process of segmentation of the labour market, and which goes even further. This segmentation can exceed the labour dimension and, thanks to the Law, is legitimized, paving the way for a separation which we could call "ethnonational", that is to say in accordance with the legal status and the national origins of the foreigners and their descendents.

The Aliens Law, its regulation and its arbitrary application, become instruments which impose an order of exception on part of Catalan society. The entire population affected by this Law lacks an important part of its fundamental rights, which directly affects their daily life and can condition in the medium and long term the affection of this population for Catalan and state public institutions and administrations.

In addition to this division between foreigners and nationals there is another between foreigners, separating those who are regularized from those who are irregularized. The latter, as shown in the previous pages,

are pushed toward highly irregularized labour segments, such as agriculture, construction, domestic service or sex work. It is not gratuitous to talk about the irregularized population, as many of them come from a prior state in which they did have a permit, but for one reason or another they were not able to renew it. And this is indeed a very current problem if we take a look at the foreign population working in the construction sector, and which depends on there being work in this sector and in this geographic region to be able to renew their permit. If the *National Employment System* does not require more construction workers, the whole population which remains in the state will form part of the group of workers in an irregular situation.

I do, however, insist that the problem for society as a whole is that these dynamics favour an even greater increase in social segregation, with the immediate result of a separation between social groups, conflict, insecurity and violence.

It is in this respect that it is sad to contemplate the current cultivation of the seeds of an even more divided society, by definition more confronted and, on the edges, *integralized*.

Catalonia's ability to jointly transform the current situation and to consider its definition of a political community of equals is the hope with the most foundation in order to imagine a society of autonomous people linked together, for a communion of rights and obligations designed and accepted by all its members, both by those who came first and those who came later.

NOTE:

This article is part of the result of a research project carried out in Barcelona between October and December 2007. The assignment

required a qualitative approach to the relations between the labour market and the immigrant population in an irregular situation.

The above pages thus deal with part of the research, that which highlights the specific relations of dependency of this population when it comes to joining the Catalan labour market.