

SUSPENDED IN EUROCRISIS: NEW IMMOBILITIES AND SEMI-LEGAL MIGRATIONS AMONGST NIGERIANS LIVING IN SPAIN

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Legislation concerning immigration draws clear distinctions between legal and irregular forms of migration, yet many migrants in practice are confined to 'in-between' migrant categories. This paper examines how the economic crisis has affected the legal status and mobility of Nigerian migrants in Spain and argues that it is producing new 'semi-legal' migrations and situations. The study is mainly based on ethnographic research and in-depth interviews with 40 Nigerians living in Madrid and Malaga. Findings suggest that there are four new categories of semi-legal migrant appearing amongst Nigerians in Spain: (i) migrants who lost their work in the formal economy and slipped back into irregularity, thus becoming forcibly immobile; (ii) Nigerians using their short-term residence permits to become perpetually mobile as 'tourists' between Spain and other Schengen countries; (iii) those who struggle to obtain the EU long-term residence permits in Spain and also come up against discretionary labour market restrictions when they move to a second member state; and (iv) Nigerian children who remain undocumented due to the long administrative waiting times and are being left in the care of friends while their parents temporarily relocate to other member states to earn money for their families in Spain and Nigeria. All these migrants share in common the fact that their semi-legal status is the result of a Spanish legalisation process which does not function in times of economic recession and is hampered by an overstretched immigration bureaucracy. The paper contributes new empirical insights to the literature on 'status-mobility', 'semi-legality' and the intra-European movement of third-country nationals.

Introduction

In the European Union, human spatial mobility is structured through the weakening of some internal borders and the strengthening of external borders. The mobility rights of migrants are regulated by the provisions in the EU *acquis* and the national rules of the respective member states. The focus in academic research has traditionally been situated at the binary extremes of 'irregular' and 'legal' movements of third-country nationals. One strand of research is concerned with the 'transit migration' of refugees and irregular migrants towards Europe (Collyer *et al.* 2010) and the 'secondary movement' of refugees between member states (Legomsky 2003). Now there is a growing body of literature looking at the legal intra-EU onward migration of naturalised

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migrants, who enjoy the same 'freedom of movement' rights as other native EU citizens.¹ Considerably less attention has been paid to the movement of migrants who find themselves in the middle of this rights dichotomy between irregular migrants and naturalised citizens, i.e. third-country nationals with short-term and permanent residence permits. The regulations that govern their rights are complex and their residence permits do not guarantee stability, which can result in movements that are not in full legal compliance (Andall 2006).

The objectives of this paper are the following. First, I provide some background about irregular migration in Spain and the different policy initiatives of regularisation. Second, I describe how the economic recession and an overstretched immigration bureaucracy have fundamentally changed the dynamics of 'status mobility' (Schuster 2005), meaning that an unprecedented number of migrants in Spain are unable to regularise their migration status or are about to lose their previously acquired residence permits. Thirdly, drawing on fieldwork data, I show how these factors are producing migrant categories that do not fit the 'irregular migrant' and are more adequately described as 'semi-legal' (Kubal 2013). Finally, the findings highlight the barriers to the legal mobility of third-country nationals and the further challenges which have arisen due to the economic crisis.

Irregular Migrants and Regularisation in Spain

Over the last four decades, Spain's position concerning irregular migration can be described as a balancing act between the need to supply its economy with migrant workers and the demands imposed by the EU to make immigration policies more restrictive in all the member states. The 'migration turnaround' experienced across all Southern European countries saw Spain evolve statistically from an emigration to an immigration country in the mid-1970s, although the volume of immigrants was quite modest at this point (King 2000). Immigration increased substantially during the beginning of an economic boom which coincided with Spain's accession to the European Community in 1986. Given its previous role as a migrant-sending nation, it lacked an immigration policy to address the arrival of migrants. Spain's efforts to enforce its external borders contributed to the overall perception of the so-called 'Fortress Europe' that the EU wanted to project. Nonetheless, its colonial past (leading to its attraction to many Spanish-speaking migrants) and its geographic location with a long coast close to Africa, as well as the lack of legal entry routes to other parts of Europe, led to the emergence of Spain as a major destination for irregular migrants.

Migrants transiting from Africa, in particular, made headline-grabbing news when some tried to scale the fences of the Spanish enclaves of Ceuta and Melilla or used little boats (*pateras* or *cayucos*) to depart on perilous journeys across the Strait of Gibraltar. Another under-reported means of entry for migrants was to fly to Spain on a tourist visa and then overstay; the majority of irregular migrants in Spain have probably entered in this manner. Initiatives to implement more stringent tourist visa regulations were rejected on the grounds that the Spanish economy depended heavily on tourism. An unknown number of failed asylum seekers and irregular migrants also came to Southern Europe from other member states, mainly in search of residence papers. The influx of migrants peaked in the early 2000s, when Spain received the largest net migration in the EU and was only surpassed globally by the US (Arango 2013: 2). For many years there were doubts whether irregular migrants were using Spain as an entry point to move on to other member states. During the years of Spain's construction boom it soon became clear that larger numbers of irregular migrants were settling in Spain, because they could easily find work in the large informal economy, often in the construction, tourism, hospitality and domestic-service sectors.

Like other countries in Southern Europe, Spain decided to address the growing number of irregular migrants in the country by offering different routes to legal residence. In order to gain a better understanding of how many irregular migrants were living in Spain, the authorities widened access to the municipal population register (the *padrón*). Since 2000, therefore, all residents are required to register irrespective of their migration status and, as an incentive, this provided access to basic health services and education (González-Enriquez 2010: 251). To regularise migrants and recruit workers, Spain made use of three main initiatives, which varied in their outcomes:

- The *regularisation programmes* were unprecedented in scale and viewed sceptically by other member states in Western Europe. A total of 1.2 million migrants gained legal status through the five extraordinary regularisation programmes carried out in Spain in 1985–1986, 1991, 1996, 2000 and 2001, as well as one normalisation in 2005 (Finotelli and Arango 2011). The overall impression was that the amnesties were successful both in improving the situation of migrants and in filling labour shortages. Nevertheless, regularisation programmes also served as a reminder of the continual arrival of further migrants in Spain. In 2008 all member states signed the European Council's European Pact on Immigration and Asylum, which also includes an agreement

designed to prevent Southern European countries from carrying out more collective regularisations (Doc. 13440/08) and thus lower their 'calling effect'.

- The *labour quota systems* were introduced in 1993 and regulated the entry of immigrants into a 'catalogue of hard-to-fill positions'. During this initiative many vacancies remained unfilled and the demand for migrant workers was not met. There was also evidence that the quota system was used by migrants who were already in Spain to regularise their status. Therefore many employers deemed this initiative unsatisfactory in attracting migrants to relevant sectors and, since 2008, it has only been implemented on a small scale.
- In 2006 the continued *settlement programme* replaced the previous amnesties as a way of regularising migrants on a case-by-case basis. Through this measure, irregular migrants are eligible to apply for a short-term residence permit once they have been registered with a local municipality for three years. Applicants also need to submit evidence of a clean police record from their country of origin and of a work contract in Spain. During the economic boom years, it was relatively easy for irregular migrants to fulfil these requirements. This measure, however, was designed to stabilise the Spanish migration regime in times of economic growth—the implications this programme may have on migrants during an economic downturn were not considered.

Although irregular migrants were able to obtain residence permits via amnesties and settlement, until now only a small proportion has been able to gain Spanish nationality. Owing to their presumed greater cultural and linguistic proximity, migrants from Latin America and the former Spanish colonies, as well as Sephardic Jews, receive preferential treatment with regard to accessing citizenship; they become eligible after only two years of holding a Spanish residence permit. The naturalisation process for migrants from other parts of the world takes considerably longer, since applicants have to demonstrate ten years of continued legal presence. This is double the residence requirement of five years recommended by the EU, and prolongs the time period that migrants spend in an unstable migrant category. Apart from that there are other general bureaucratic hurdles which delay the naturalisation process—most notably, the high demand for naturalisations over the years which has created a backlog of nearly 500,000 applications although it is in the process of being cleared (Martín Pérez 2013).

Methodology

This paper is based on fieldwork among Nigerian migrants across three European destination countries, namely Germany, England and Spain. I conducted in-depth interviews with Nigerians that generated interesting data concerning their migration trajectories and experiences of living in the respective countries. The participants included Nigerians who had lived in several EU countries and those who had only lived in one country, irrespective of their legal status. This allowed me to engage with migrants' (im)mobilities within the Nigerian diasporic space in Europe. I therefore did not study a particular group of either regular or irregular migrants, but rather the interaction between the mechanisms of migration regimes and migrants' agency in achieving their aspirations of mobility or settlement. After the completion of fieldwork I stayed in touch with many of the participants via mobile phone, email or social media, which allowed me to observe changes over time. In addition, I carried out expert interviews and used other ethnographic methods, including observations regarding migrants' communal places and their daily activities.

For the purpose of this article I focus on the interviews conducted with 40 migrants from Nigeria (20 male, 20 female) whom I met in Spain—some living there and others visiting their former country of residence. The age range of the respondents was 24–62 years and most belonged to either the Igbo, Yoruba, Edo or Hausa ethnic groups. Where appropriate, I also draw on my fieldwork in the other countries to offer further insights. The participants gave informed consent and all interviews were conducted in English, lasting between one and two hours. The names used in this article are either pseudonyms which the participants chose for themselves or their real names if this was their preference. The interviews had an open character and the topics discussed were largely chosen by the participants. The interviews took place in the participants' preferred location, either public spaces or their homes. Later the interviews were recorded, transcribed and coded. As a result of these methods, my sample is not a truly random one. The empirical arguments of this paper therefore cannot be claimed to be representative of Nigerian migrants in Spain, who are, in any case, a highly fluid and under-studied population. Instead this paper provides an inductive exploration of the dynamics of the migration trajectories of Nigerians in Europe, and also sheds light on how the economic crisis has affected their lived experiences.

The Situation of Nigerian Migrants in Spain

There is a variety of estimates concerning the number of Nigerians living abroad which ranges between 5 and 20 million, mainly in other West African countries, the US and in Europe (Adepoju and van der Wiel 2010: 116). From the 1950s onwards, considerable numbers of middle-class Nigerians migrated to the US and the UK, mainly for the purpose of education. These previous generations used to return to Nigeria and were able to find well-paid jobs in the public sector. In the following decades the Biafran War, the oil crisis, structural adjustment programmes and authoritarian military rule brought about fundamental changes in the country and a high proportion of professionals left to find employment abroad. Later the intercontinental outflow of Nigerians further diversified in terms of the profiles and the destinations of the emigrants (Binaisa 2013). Due to the high levels of poverty, unemployment, violence and instability in Nigeria, unskilled migrants also started 'seeking greener pastures' abroad—the phrase most commonly used, especially by male participants, to explain why they came to Europe. More restrictive immigration policies led to the settlement of Nigerians in new European destinations like Italy, Spain, Germany and Ireland.

The size of the Nigerian community in Spain rapidly grew from 941 Nigerian nationals registered with the municipalities in 2000 to 45,936 Nigerians by 2012 (INE 2013).² After the Senegalese, they are the second-largest group of sub-Saharan migrants in Spain. In 2012 around 58% of Nigerian nationals in Spain were men, and 42% were women (INE 2013). Nearly half of Nigerian nationals were aged 30–39 and most children were younger than ten years old. The geographic distribution of Nigerians is concentrated in four Spanish cities, with roughly half of them living in Madrid, Barcelona, Valencia and Malaga. There is hardly any information about the socio-economic profile of the whole Nigerian community, apart from the level of education of those working in the formal economy. The available data about employed Nigerians show that the overwhelming majority have secondary-school qualifications, and a smaller proportion has either primary or no formal education, but hardly any Nigerians working in Spain have completed post-secondary education (OPI 2009).

The integration of Nigerians in Spain is impeded due to two major issues. Firstly, only a very small proportion of Nigerians hold Spanish citizenship; between 2001 and 2011 a total of 2,513 Nigerians became Spanish nationals (OECD 2013). This can be partly explained in that naturalisation trends follow migration flows with a time-lag. Nigerians only arrived in Spain in considerable numbers in the early 2000s and their eligibility

for Spanish citizenship requires ten years of legal residence. However, there is another impediment relating to the application process for residence permits that is blocking the integration process of Nigerians in Spain and keeping many trapped in an irregular status. All migrants in Spain need to present a clean police record from their country of origin when applying for the initial short-term residence permit, the subsequent renewal of other residence permits and the acquisition of Spanish nationality. In 2007 it was found that many Nigerians had falsified these police records; since then Nigerians have become the only migrant community in Spain that is no longer allowed to submit police records which were requested remotely from the country of origin (Badcock 2010). Seeing that it is impossible for an irregular migrant to return to Nigeria for this document, the Nigerian embassy has started to arrange for the Nigerian police to visit annually to issue these documents in various Spanish cities. Despite these efforts there are still long delays and not all individuals receive their requested police records. Furthermore police records are considered valid for only three months and thus often expire by the time of the appointment with the Spanish authorities.

The majority of Nigerians who eventually manage to complete the bureaucratic procedures and become naturalised Spanish citizens decide to relocate to another country. In 2011, for instance, only 1,037 Nigerian-born migrants with Spanish citizenship appeared in the municipal population register (INE 2013), although a total of 2,513 Nigerian nationals were naturalised since 2001 (OECD 2013). This practice of leaving Spain upon naturalisation corresponds with my findings that many Nigerians ultimately envisaged themselves living in an English-speaking country like the UK or Canada, where they believed migrants encounter better opportunities. As evidence of how difficult integration was for migrants in Spain, Nigerians pointed out that even Spanish-speaking post-colonial migrants were restricted to working in low-paid jobs. To some degree this explains why the majority of Nigerians, including community leaders, were not paying much attention to the development of their Spanish language skills. However, it is important to note that others adapted well to living in Spain and said they preferred the Spanish lifestyle over that in other European countries, favourably commenting on the close-knit Nigerian community, the outdoor lifestyle, the good weather and the safety for their children. In other words, upon arrival they might have regarded Spain as a transit country, but later changed their mind when they found gainful employment. Schapendonk (2013) argues that the same is true for Nigerians who settled in Turkey, although they had initially planned to continue their journey towards the EU.



The second issue that affects their integration is that many Europeans tend to have a perception of Nigeria that is affected by the negative reports in the media (Carling 2006). Similar to other parts of Europe, the news about Nigerians in Spain often focuses on the highly politicised issues of human trafficking, drug-dealing and email scams. For instance, in Malaga, 168 Nigerians have been convicted for sending out fake national lottery notifications across various countries asking for payment of advance fees to disburse the winnings (*El País* 2011). Variations of this type of scam used to be known as ‘Spanish prisoner letters’ and had been circulating around the world for several centuries but, due to the widely reported arrests of Nigerians, they are now commonly referred to as *lotería Nigeriana* in Spain. Nigerians themselves appear to have internalised these exaggerated claims of criminality, as I was repeatedly told that ‘Spanish prisons are full of Nigerians’. These accounts are likely to be conflated with the number of Nigerians in detention centres for immigration-related issues, given that their actual proportion of the prison population is relatively small (García-España *et al.* 2012).³ All this negative attention has tarnished the image of Nigerians and means that they are met with considerable scepticism by Europeans and other migrant groups. Even though the vast majority of Nigerians are law-abiding individuals, the actions of a few are making the integration experience in Spain particularly challenging.

Against these odds, or rather in response to it, Nigerians have carved out a strong ethnic economy, which will be explained in the following sections. This has become even more important after employment opportunities in the construction sector suddenly disappeared when the period of sustained economic growth came to an end and the economy later contracted.

The Impact of Austerity Measures on Migrants’ Rights and Popular Resistance

The effect of the eurocrisis on Spaniards is often described as devastating; however, the situation of migrants in the country is arguably worse. Their civil and political rights, as well as their socio-economic rights, have been curtailed by austerity measures introduced when government spending spiralled out of control. Contrary to the developments in other Southern European countries, there has not been a backlash against migrants amongst the general Spanish population, and in fact many Spaniards have taken direct action to challenge the legislative changes. The big issue that is affecting a high proportion of residents in Spain is that of unemployment, with the general rate rising to 24% in 2012, and that amongst foreign nationals reaching

36%, although the unemployment rate amongst African migrants is considerably higher (Arango 2013). The residents who still have a job in the formal sector are faced with *relaxations of labour legislation* that have made dismissals easier, lowered wages and put workers in an overall more precarious situation.

The deterioration of social rights in Spain has mainly occurred in relation to housing and health. A continually rising number of people in Spain are facing *evictions* from their homes—between 2008 and the first quarter of 2012 there were over 390,000 mortgage repossessions (Aierbe 2013). By the time the national collective action opposing the evictions gained momentum, many migrants had already lost their homes because they became unemployed before the Spaniards. The European Court of Justice issued a ruling in March 2013 recognising the existence of abusive clauses in mortgage loans, thus empowering judges to suspend eviction proceedings. The *withdrawal of universal healthcare* came into force in September 2012, meaning that irregular migrants no longer had access to basic healthcare—only children, pregnant women and people in need of emergency assistance continue to be eligible. Many health personnel conscientiously objected to this law and the autonomous regions resisted enacting it, and therefore continue to render health services to all residents.

The ways in which the civil and political rights of migrants have been infringed are even more numerous. The *racial profiling in police work* has been an on-going issue for migrants, as Spanish police forces target people of colour in public spaces and check their residence permits. Since the economic crisis, mass apprehensions of visible minorities have been reported in many Spanish cities (Amnesty International 2011). This is closely linked to the practice of *detentions and deportations* for which Spain signed bilateral migration agreements with six of its biggest source countries of irregular immigrants also covering repatriation (Adepoju *et al.* 2010).⁴ In response to several reports, however, the UN Human Rights Committee felt compelled to warn Spain against the arbitrary detention and expulsion of foreigners (HRC 2009). On the whole, the opportunities to challenge these practices have decreased due to three measures. Firstly, there were attempts to introduce *financial obstacles to accessing justice*. This new law on judicial charges (*ley de tasas judiciales*) was approved by the government, specifying that, in order to appeal against a court decision, a fee of between 100 and 1,200 Euros was to be paid. This law was amended four months after its enactment, following a strike by magistrates and prosecutors (Aierbe 2013). Secondly, the *cuts to funding for civil society organisations* since the austerity also meant that associations and municipalities working on immigrant

integration were forced to scale back or stop their services altogether (Arango 2013: 7). Thirdly, a draft bill proposed to reform the penal code by introducing the possibility of *criminalisation of citizens for assisting irregular migrants*. According to Aierbe (2013: 20) 'The current wording leaves it possible, for example, that those receiving undocumented migrants in their home, or helping them financially, may be punished with a prison sentence of up to two years'. In response to this, an initiative called *Salvemos la Hospitalidad* was launched, calling for a return to hospitality towards migrants.

In sum, these developments demonstrate that the rights of migrants in Spain have come under attack recently. Meanwhile the support for migrants amongst the wider public remains strong and was crucial in reversing some of these measures. Nevertheless, it is understandable that migrants might not feel as welcome in Spain as before and thus are looking for opportunities to relocate to another country.

New Nigerian Migrant Groups with an Irregular or Semi-Legal Status

The predicted mass exodus from Spain in reality turned out to be a lot more moderate in size and to involve more groups than originally anticipated. The stock of native Spanish citizens abroad has only increased by 40,000 since 2008, equivalent to a 6% rise (González-Enríquez 2013). A far larger proportion of out-movement from Spain can possibly be attributed to Latin American migrants who returned to their country of origin⁵ or onward-migrated elsewhere (McIlwaine 2011). Migrants from other parts of the world are also leaving Spain, though it is far more difficult to account for their movements in statistics at the European level (EMN 2013). In the following section, I present some relevant empirical material. This will help to explain how the economic crisis and the overburdened immigration bureaucracy in Spain contributed to the increase in Nigerian migrants with an irregular or semi-legal status.

Losing the Status You Earned: Precarity and Involuntary Immobility due to Befallen Irregularity

The process of how irregular migrants gain legal residence is relatively well documented; however, the opposite process of regularised migrants falling back into irregularity is a largely under-studied phenomenon. This certainly has to do with the lack of reliable statistical data, but another contributing factor is the bias in academic research towards focusing on

how irregular migrants become more included over time, thus omitting experiences of exclusion. In her study of the Italian case, which has some parallels with Spain, Schuster (2005) illustrates how migrants in Italy fitted into and moved through various migrant categories during their stay in Europe. Some were able to legalise their stay, while others later found themselves undocumented again. This shifting between categories is what Schuster terms 'status mobility'. At the time of my interview with Sonia, she had a national permanent residence permit and, as a single mother, was struggling to provide for her child in Spain and for the others whom she had left behind in Nigeria:

Things are not easy for me and my son. Even as I am sitting here now, to pay my house rent is very difficult for me. Imagine someone who don't have work, how will he pay his rent or feed the children or buy the clothes? I used to work in a factory, but I lost my job and *ayuda* [social welfare] has finished. [...] Now I can't even send my mother money to chop [eat]. I didn't even send money for Christmas. If you are in Europe and you cannot send money to your family and children it is very bad [...] As we are sitting here we just came out from the Caritas [Catholic charity] for help or food. They say there is nothing, nothing (Sonia, 43, Malaga).

On several occasions I saw Sonia give very outspoken interviews to the press regarding the issue of residence papers and the need for jobs. When I was on the phone to Sonia several months later, her permanent residence permit was going to expire within a month and she was under the impression that this meant she would lose her legal status: 'I have suffered for this document. Now we beg in Torremolinos and Benalmadena'. As she also lacked the money to renew her Nigerian passport, Sonia thought she was about to become completely undocumented again. Fortunately, Sonia was able to renew her permanent residence a few months later, because she obtained information that the permanent residence status is unlimited and it is only the residence permit itself that needs to be renewed, a simple formality for which she did not need a work contract. Sonia's experience, however, illustrates the periods of extreme uncertainty which migrants pass through when they lack access to all the necessary information. There is evidence that a proportion of migrants in Spain who gained residence permits under previous regularisation programmes also lost their legal residence. The last regularisation, which took place in 2005 during Spain's economic boom years, appears to have had the most durable effect; a year after the regularisation, 80% of the regularised migrants were able to renew their short-term residence permit (Finotelli and Arango 2011: 505).

In the past, 'status mobility' (Schuster 2005), due to a slow-moving bureaucracy or the difficulty of securing a work contract, characterised Southern European immigration regimes to such a extent that the term 'befallen irregularity' was coined (González-Enríquez 2010: 258). This type of irregularity used to mainly affect migrants with short-term residence permits, but Sonia's case shows that long-settled migrants, who arrived in Spain over a decade ago, may also fear that they will lose their permanent residence permit. For many years the EU has been trying to improve the rights of third-country nationals and a major step in this direction was Directive 2003/109/EC concerning the EU long-term residence permit. One of the several advantages of the EU long-term residence permit over the national permanent residence permit is that it renews automatically. An evaluation report by the Commission (COM 2011/585) indicates that, by 2009, Spain had issued 19,986 EU long-term residence permits; thus an equivalent of just 0.3% of legally residing third-country nationals in Spain benefited from the new residence paper. Before Spain finally transposed the directive in 2011,⁶ African migrant associations had submitted petitions to the European Parliament arguing that the delay in transposition violated the rights of third-country nationals. The reply to the petition highlighted that Spain was aware that the European Court of Justice, in various rulings, acknowledged the direct applicability of Community directives and that, in cases of non-transposition, rights enshrined in directives can be directly invoked by private individuals *vis-à-vis* the public powers.

In addition to the loss of legal residence status, Nigerians and other migrants are also experiencing downward social mobility. Like Spaniards, they bought properties at inflated prices when the banks were offering 120% mortgages. Migrants also started families or successfully arranged a family reunification. When the eurocrisis started, migrants became unemployed a long time before the Spaniards. As a result they exhausted their maximum entitlement to unemployment insurance and fell behind with mortgage payments much sooner than the majority population. During my fieldwork in November 2012 there was a large public outcry and collective action to stop the evictions (*desahucios*) after Spaniards started committing suicide in sheer despair about losing their homes. These initiatives came too late for many of the Nigerians I spoke to, seeing that their homes had been foreclosed and they had already been evicted. In the following interview extract, Emmanuel explains how losing his job in a warehouse and then his home has affected him and other Nigerians in Spain:

They prefer locking the house, than letting the owner stay in the house and pay small money. [...] The money that I owe them now is about 90,000 euros. I will not finish the debt before I die. [...] Many people I know they

are beggars. Now if you look at the supermarkets [in Madrid], you will see a lot of Black people and 90 per cent of them are Nigerian. Nearly all the ones you see in front of the supermarket are the house owners. Somebody that is begging, the person is not putting the money in the bank... because if you put it in the bank, they will collect it (Emmanuel, 36, Madrid).

As Emmanuel points out, even if the Spanish economy recovers, former homeowners will feel the effects for years to come. Unlike other countries, Spanish law determines that there is no debt-forgiveness for borrowers who default on their mortgage repayments. Those who fall behind with the repayments will remain saddled with large debts—even beyond their death—on properties they will never own. Emmanuel believes this is why Nigerians in Madrid now feel the preferable option is to do informal jobs, such as selling a newspaper for homeless people called *La Farola* in front of supermarkets. This attitude is shared in the wider Spanish population, and thus it is possible that former homeowners will restrict their economic activities to the informal sector. It is important that this issue is addressed, not least because, without a formal work contract, ‘befallen irregular migrants’ will not be able to regularise their status again.

The aforementioned factors have made some Nigerians forcibly immobile and thus weakened their opportunities to engage in ethnic trading activities. During the Spanish construction boom years, Nigerians used to have enough surplus cash from their regular jobs to occasionally travel elsewhere in Europe to buy goods that could be re-sold at a profit in Spain or Nigeria. For instance, women travelled to the Netherlands to buy Nigerian cooking ingredients, African fabrics and hair products, which were much cheaper there due to long-established cargo businesses. Others who had previously lived in Italy often returned to their former place of residence to buy leather shoes, handbags and other clothes at wholesale prices to sell in their shops in Spain. Nigerian men used to frequently go on short trips to the Netherlands or Germany to buy cars and buses which they arranged to be shipped to Nigeria. At the time of my fieldwork, only very few Nigerians I spoke to were still engaged in these intra-EU activities, as they now lacked the financial resources. Instead the investment for the purchases now tended to come via loans from contacts elsewhere in the diaspora or in Nigeria. Here we hear again from Emmanuel, who was able to find another job and retain his residence permit:

Before, I travelled frequently to buy something. But not now... for two ... three years I have not travelled, because I don't have the money. Before, you could travel with 1,000 Euros and now you find you only travel with 200 Euros.

I travelled to Germany [last weekend] because my parents sent me money to invest. Look at me, my wife is not doing anything. Many Nigerians, it affects us too much, because it is a foreign land.

The Nigerians who were exporting had started sourcing the used vehicles, second-hand clothes and consumer items solely within Spain. In Malaga especially, many Nigerians had to give up their shops during the economic crisis, when decreased revenues no longer allowed them to pay the overheads and taxes. As an alternative, some of them had started to become involved in Spain–Nigeria ethnic trade networks—although only a few were able to register this activity as self-employment, which would have meant having a much-needed work contract.

Both Overstaying and Understaying: Becoming Semi-Legally Mobile

The aforementioned experiences of involuntary immobility due to the economic crisis stand in stark contrast to the continuous ‘semi-legal’ mobility between two or more EU member states that other migrants engage in. This form of semi-legality has also been described by Rytter (2012) in relation to transnational couples dividing their lives between their formal residence in Sweden and their work and family life in Denmark. Changes to the Danish immigration regime aimed to curtail the number of transnational marriages and family reunifications. The couples who were legally prevented from settling in Denmark invoked European law in order to lead a ‘normal’ family life. Nonetheless they had to be careful to adhere to certain legally defined periods of residence, in order not to ‘overstay’ in Denmark or ‘understay’ in Sweden (Rytter 2012: 98).

During my fieldwork in Spain and Germany I became aware of similar types of movement between Schengen countries. Many Nigerians who held a short-term residence permit in Spain or Italy were travelling to Austria, Germany, the Netherlands, Norway or Switzerland for longer periods of time. According to the EU *acquis* they are allowed to stay as tourists in other Schengen countries for a period of up to three months in any half year. As Kubal (2013) points out, it is difficult for the authorities to know exactly when these three months of tourist visit have elapsed because, with the absence of border controls, there are no entry stamps in the passport. One of the experts I interviewed also mentioned that the police frequently encountered semi-legal third-country nationals from other EU member states in Germany and the officials were not always fully informed about their rights:

Most cases of our girls who come from Italy or Spain and then they are arrested at work. Not because they are not supposed to be here in Schengen... they can... but because they are working [...] This girl came from Spain, they caught her at work with a Nigerian passport with Spanish residence. In fact she has stopped with prostitution in Spain, she now went into catering and hotel. But then in the winter there is no work, so she decided to come here. Then [the police] took her and said: 'We are going to deport her to Nigeria'. And I said: 'Why to Nigeria?' They thought the passport was not good, the passport was fake... I explained that the only thing that could be wrong with it, is that she was not there to take the passport personally, maybe they sent it from Nigeria. This passport was ok. They were going to deport this girl to Nigeria who had fought so hard for her residence permit. [...] The girl said: 'Please give me my passport and let me go back to Spain'. [...] She was eventually deported to Spain. When they come here, of course, they always say the day they were arrested is the day they came. Some have been arrested three or four times (Sarah, Berlin).

The timing of the rise in this type of mobility can be explained in the context of the welfare provisions in Spain. Those who lose their jobs can claim a maximum of two years of unemployment insurance (*paro*) and those with children can subsequently claim an additional two years of benefits (*ayuda social*), provided that their children are documented. In other words, after a maximum of four years, all welfare benefits are stopped and other universal social assistance is almost non-existent. In addition, migrants are required to stay in Spain while in receipt of unemployment insurance and those who left Spain for longer than 15 days were asked to pay back the unemployment insurance they had drawn *in absentia*. At the time I was doing my fieldwork in Spain the majority of Nigerians there were about to exhaust their welfare entitlements. Moving to other countries in the Schengen area therefore offered temporary respite from their precarious situation in Spain, as some had the opportunity to stay for free with family or friends. When the economic crisis deepened and more people continued arriving from Southern Europe, the practice of Nigerian-led churches in Spain to distribute food after Sunday services was also adopted by some Nigerian-led churches in Germany. These informal support networks have eased the situation of some Nigerians, although there are limits to the assistance these networks can provide and not everyone is fortunate enough to be able to rely on others. That is why many try to find informal jobs or rent residence papers in order to make a living, meaning that their employment situation is irregular. A few months earlier, Jennifer had returned from an extended stay with her brother in Austria, where she found a job working in a restaurant kitchen using another person's documents. She had come to

Spain for an appointment and was hoping to travel back to Austria in the near future:

For them to normalise you in Austria... for you to be an Austrian is so, so difficult. First you have to get married to an Austrian man or an Austrian woman. And before you can get married you have to go back to Africa and you don't even know if they will let you come back to Austria. [...] Half of the Africans in Switzerland and Austria they have Spanish documents. [...] Now I am married to a Spanish and they immediately gave me five-year *permanente* in Spain. This week I was at the embassy to finish some documents and later I will go back. [...] [In Austria] my husband can help me mend my [work] permit (Jennifer, 34, Malaga).

As the spouse of an EU national, Jennifer will benefit from enhanced rights and a more stable residence status (Directive 2004/38/EC). However, I met other Nigerians who returned to Southern Europe before their residence permits were due to expire and then tried to make all the necessary arrangements to renew their papers. For the renewal of residence permits in Spain, migrants need to demonstrate that they have worked for six months of each year of residence. In Rytter's (2012) study, the couples were trying to comply with the requirements of the two member states where they lived by not 'overstaying' or 'understaying' in either. I argue that an increasing proportion of third-country nationals may be 'semi-legal' in two countries at the same time. This is because, through extended stays outside of their first country of settlement, they are often 'overstaying' in Northern Europe while simultaneously 'understaying' in Southern Europe.

Impossible 'Freedom of Movement': Multiple Barriers to Permanent Relocation

For many Nigerians, permanent relocation to another member state would be a means of escaping the crisis; however, 'freedom of movement' used to be a right reserved for EU citizens. This changed with the long-term residence directive (2003/109/EC) that aimed to grant third-country nationals rights and obligations comparable to those of EU nationals, including the right to 'freedom of movement'. Importantly it also shortened the time that third-country nationals have to wait to become mobile within the EU. Nigerians in Spain could previously only access this right upon naturalisation after ten years of continuous legal residence, but now the EU long-term residence permit facilitates mobility after only five years. Despite the apparent attractiveness of the EU long-term residence permit, relatively

few third-country nationals have applied for it. One reason for the low uptake is that the Commission report (COM 2011/585) reveals a general lack of awareness amongst third-country nationals about this new residence paper, because member states have barely publicised it. Furthermore confusion arises from the fact that the transposition of the directive in Spain has led to a situation where two types of permanent residence permit exist: the national permanent residence permit and the EU long-term residence permit. Most important, however, is that even migrants who are informed about this residence permit now lack the financial resources to fulfil the eligibility criteria. The conditions for access to EU long-term residence require applicants to provide proof of sickness insurance and adequate financial resources for themselves and their family. Had Spain complied with the transposition date in January 2006, third-country nationals would have been able to fulfil these conditions relatively easily. During the economic downturn these conditions are trapping Nigerians into using unstable national residence papers.

The following interviewee, Ben, has Spanish permanent residence but, since the recession, has been underemployed and underpaid. Therefore he is considering a move to another EU country and trying to obtain the EU long-term residence permit. Even though Ben fulfils the five-year legal residence requirement, has a work contract and most of the other documents necessary for the application, he is still doubtful about his prospects:

Where I work now, I have not been going to work since Monday, but my boss called me and I will go to work on Friday. [...] and it is not the same they are paying before. The same work we are now doing for maybe 6.60 Euros, then it used to be 10 or 12 Euros. It's very low, but if you want to work at all, you need to take it like that. And the way they treat you at work is not alright. They treat you the way they like... they pay you the way they like at times. You might work 25 hours and they pay you 20 hours. They know you will not go, because there are no other jobs. [...] Sometimes you don't eat three square meals here. [...] I am applying for a EU paper. One day they might call me here and say that the work is finished, because my work is temporary here. So I want to solicit for a paper that can make me work in another EU country. But for now I haven't been able to finish with the papers, because I still need to wait for some papers. [...] I might be refused, because I have tried it twice. They said I need to look for a job. But I told them at the office: 'If I got a job here, I don't need to look for a job in another EU country'. For me to get the EU paper I need to present a [work] contract here in Spain. That law is funny. But now I have a job, together with the documents and I will present it (Ben, 42, Madrid).

In a follow-up conversation a few months later, Ben mentioned that he remained employed, but was still unable to relocate to another Schengen country. His application for the EU long-term residence permit had been rejected on the grounds of one missing document, the sickness insurance. Ben just muttered incredulously: 'I don't think they want us to leave'.

The various administrative hurdles currently make it difficult for Nigerians and other third-country nationals to relocate in full compliance with all legal requirements. Several of my participants indicated that, at times, even those few who were lucky enough to have been granted the EU long-term residence permit found themselves in a semi-legal status. This had to do with the fact that third-country nationals with an EU long-term residence permit can still be denied a work permit when they decide to move to a second member state. Here we hear from Ben again:

My friends they tell me even with the *tarjeta* [the EU long-term residence permit] you cannot work in Germany, it depends on the law of each federal state. In Duisburg they might say no, and then you go to Essen and they say yes.

This is because Directive 2003/109/EC further specifies that member states have the discretion to apply additional limitation to labour market access, i.e. member states are allowed to maintain existing quota systems and carry out a labour market test before they issue work permits to mobile third-country nationals.⁷

Stuck Between Ius Soli and Ius Sanguinis: Undocumented Children Left Behind in Spain

The fourth semi-legal migrant category concerns Nigerian children. In this section I present interview evidence which shows that, due to restrictive immigration policies and the economic crisis, undocumented children are being left behind in Spain—thus (temporarily) extending transnational families across several countries. Even though transnational childcare was not the main focus of my research, this theme arose when female participants brought children to interviews whom they did not mention in their narratives. When I enquired about the children, I was told that they had been left with them while their mother was travelling to another EU member state. Other researchers have noted that it is quite common for Nigerian women in Spain to leave their children in the care of other migrants or a Spanish family for extended periods of time while they go to work, which often gave rise to problems with the Spanish authorities (Kastner 2010), and

similar practices are also observed amongst Angolan mothers in Portugal (Øien 2006). When single mothers had to relocate due to the economic crisis, they often left their undocumented children with friends or family. This was the preferred option because it did not interrupt the child's school attendance and, in Spain, the mothers had more trusted contacts who could take on this child-caring responsibility. These 'informal fostering arrangements' Nigerian women can avail themselves of may be the reason why relatively few Nigerian migrant-origin children are being left in the care of the authorities. Newspapers in Greece and Italy have certainly featured reports on 'orphans of the crisis' and 'abandoned children'. Apparently an increasing number of non-migrant families who lost their homes and all financial means are placing their children into care. My interview with Gloria took place while the children she was looking after were taking their afternoon nap:

The children that are here with me, their mother don't want to stay in Spain. Their mother is in Holland now, because she have document. She is telling me she wants to keep the children in a boarding house. She doesn't want to stay in Spain, they doesn't pay the children and they doesn't pay her. She is working in Holland, but the children are here. The children don't even have document. How can a mother have document and the children don't have? Let's say in Italy if you have a child, they will put it in your document, but here they don't do so... if you don't have a document, the children don't have document (Gloria, 39, Madrid).

Other single mothers were making preparations to leave their children behind. Anita, for instance, was considering a semi-legal stay with friends in Germany to find work, and had placed her son in a boarding school. For her it was preferable to move to another country than to return to Nigeria, as she was still determined to achieve her primary goal in coming to Spain, which was getting her son a Spanish passport:

My experience was so rough, because I was a single mother. I struggled to get my paper and I applied several times and they denied me. And thank God, in 2010 they gave me papers. Since I got my own, I have been trying to get for my son. Now he is seven years old and without paper, but he was born here in Malaga [...] He can't move out of Spain, if I want to travel who am I going to leave my son with? [...] The month my son gets his document I will go back to my country or another country. It is very important for my son to have documents. So he can be able to come back here when he is grown, instead of running up and down for a visa. I want to do what makes him happy when he is grown (Anita, 36, Malaga).

It may be the feminisation of migration, and the European socio-political conception of a family with its assumption about an inseparable tie between mother and child, that have contributed to the proliferation of research on 'transnational mothering' (Hondagneu-Sotelo and Avila 1997, Parreñas 2005). More recent research has shed light on other aspects of transnational parenthood, such as transnational fathering (Carling *et al.* 2012). The Nigerian men who decided to start a family in Spain usually brought their wives from Nigeria—this was especially common amongst the Igbo ethnic group. Before the Spanish immigration law reform came into force in 2011, immigration rules prevented the wives from working for the initial two years. Men were thereby legally given the role of sole breadwinners, despite the fact that their wives had worked in Nigeria and many were graduates. Therefore Spanish immigration policies created traditional family roles through which Nigerian women (temporarily) became stay-at-home wives, something they were often not used to in Nigeria. Eventually women found work in the hospitality and service sectors, and also did informal jobs like elderly care, cleaning or selling Nigerian food. Many men had been working in the construction sector and the burst of the building bubble made those jobs vanish; during the recession only a few continued to work in the manufacturing industry and service sector (OPI 2009). This meant that men experienced greater pressure to seek work outside of Spain, while the wives and children stayed behind. In the following excerpt Max explains how he felt compelled to seek work in Scandinavia and how his family has become extended over several countries:

I went to Norway because it is in Schengen and I am interested to learn about their technology. I went for a visit and they gave me a job in a company, just a blue-collar job, but it's ok. [...] Later my wife will follow, she is a Spanish national... for her it was easy [to obtain Spanish nationality], she is a Latina. [...] My son has his Nigerian passport, but we are still waiting for his Spanish passport. I went to the office... nothing... for four years now his paper has not come out. [...] We are also doing *reagrupación* for my wife's daughter to join us in Europe. I think that will take some time... but then they will all come (Max, 43, Madrid).

Following Kubal's (2013) conceptualisation, 'incomplete responses to regularisation' can also be considered as a 'semi-legal' status. In other words this relates to migrants who are *de iure* eligible, but who face *de facto* barriers which prevent them from becoming regularised. Undocumented children in Spain who fulfil the eligibility criteria for regularisation or naturalisation but who still lack papers can therefore also be seen to fit this

category. In 2013 there were 9,354 second-generation Nigerian nationals registered with Spanish municipalities (INE 2013). For the undocumented second generation, their legal status is dependent on that of their parents. The advantage of the Spanish law used to be that undocumented children could be regularised if their parents had residence papers and could present proof of means of livelihood. During the economic crisis this very law has had the opposite effect of instead creating a growing number of undocumented children, given that more migrant parents are now working in the informal economy without wage slips and the long delays in the immigration bureaucracy.

Conclusions

During a period of sustained economic growth and an unprecedented high influx of migrants, third-country nationals in Spain were able to gain legal status through collective regularisations and the case-by-case regularisation programme. Given that naturalisation for third-country nationals, who do not originate from a former Spanish colony, requires ten years of legal residence, many Nigerians were restricted to unstable residence papers. The implications of this became particularly apparent when Spain was hit by the economic crisis, as migrants struggled to find a work contract to renew these residence papers and were not allowed to seek work in another member state. The new EU long-term residence permit offers rights very similar to those of EU nationals and is obtainable after a legal residence requirement of five years. Spain's delay in transposing the EU long-term residence directive has prevented many third-country nationals from moving into this more stable migrant category.

This paper illustrates the various new semi-legal migrant categories that are emerging in Spain due to the economic crisis and an overburdened immigration bureaucracy. Drawing on interview data and the existing literature, I was able to identify four semi-legal migrant categories amongst Nigerians in Spain that challenge the legal construct of the 'irregular migrant'. First, semi-legality can be applied to the situation of migrants who are losing their residence permits due to the economic crisis. This is because the Spanish case-by-case regularisation programme was designed for a country experiencing constant economic growth to provide a steady supply of regularised migrant workers—an economic downturn of this magnitude was never anticipated and thus no safeguards were put in place for long-settled migrants against what has effectively become Spain's first unintended 'irregularisation' programme. Second, due to mass unemployment amongst

migrants and the absence of universal social welfare provisions in Spain, more Nigerians with short-term residence permits are perpetually on the move within the Schengen area, looking to find informal jobs in order to provide for their families. Their trajectories are shaped with a view to not 'overstaying' in Northern Europe or 'understaying' in Spain, but in practice this is very hard to achieve and they become semi-legal in two member states. Their stay in a second member state is only legal for a certain amount of time, but their working conditions are often irregular. Third, semi-legality also helps us to understand the difficulties that third-country nationals face when moving between member states, and in particular the bureaucratic hurdles which currently still make it virtually impossible to relocate in full legal compliance. Spain's strict interpretation of the financial income eligibility requirements for the EU long-term residence permit are nearly impossible to meet during the recession and could be relaxed in order to facilitate access to this residence paper. Finally, the situation of undocumented second-generation children can be characterised as one in which many children fulfil all the requirements for naturalisation but their regularisation applications are being delayed unnecessarily, thus preventing them from relocating to another member state together with their parents.

These examples show that Nigerian migrants in Spain have responded to the various experiences of semi-legality by adapting their migration trajectories and restructuring their livelihood strategies. While third-country nationals have benefited from directives that aim to make their rights and obligations more similar to those of EU nationals, this paper also highlights the need to ensure that third-country nationals can realise these rights in order to facilitate better integration and avoid precarity.

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Notes

1. Most studies have been carried out with former refugee groups who moved to the UK, e.g. Somalis leaving Denmark and the Netherlands (Bang-Nielsen 2004, van Liempt 2010), Tamil Sri Lankans relocating from continental Europe (Lindley and van Hear 2007) and Iranians migrating from Sweden (Kelly 2013). Two notable exceptions are the examples of Latin Americans who relocated from Spain to London (McIlwaine 2011) and Kurds moving from Italy to Germany (Schuster 2005).
2. The total figure of 45,936 for 2012 comprises 36,582 Nigerians of the first generation and 9,354 Nigerian nationals of the second generation.
3. Although no disaggregated data about the nationality of migrants in Spanish detention centres are publicly available (RDP 2013).
4. The agreement which Spain signed with Nigeria is the only one restricted to repatriations (RDP 2013).
5. In a bid to reduce unemployment, the Spanish government introduced 'pay-to-go schemes' (*plan de retorno voluntario*) for migrants. It offered to subsidise the return of migrants to their country of origin, as well as favourable re-entry to Spain after five years. Since 2009 around 30,000 migrants, most of them originating from Latin America, took up this offer (Arango 2013: 6); Nigerians were not amongst the nationalities eligible for this scheme. Only a few have made use of the separate *plan de retorno social*, which is the assisted voluntary return programme operated by the IOM in Spain since 2003.
6. In 2011 a regulation implemented the 2009 reform of the *Ley Orgánica* concerning the rights and integration of foreigners.
7. For an overview of further discretionary member-state requirements and indirect limitations see the European Migration Network report (EMN 2013: 22–24 and 34–44).

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