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2 Immigrants’ integration into the Spanish welfare state
A gap between rights and effective access?

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2.1 Introduction

In the last decade Spain has experienced a dramatic growth in population primarily due to a very fast and intense migratory flow. Foreign population went from representing 2.28 per cent of the total population in 2000 to 12.17 per cent of the registered population in 2010 (more than 5.7 million persons). Between 1990 and 2005, Spain became one of the primary destination countries for immigration in the world, joining countries with a long tradition as receivers of migration flows such as the United States and Germany (United Nations 2006: 31).

In spite of restrictive migration policies and the non-policy of integration in force until 2006, immigrants in Spain soon began to enjoy economic and social rights. Foreign workers with a formal job contributing to the social security system are entitled to unemployment benefits or pensions, just like nationals. Even immigrants with an irregular legal status have gradually earned entitlements to healthcare or social services. However, this relative broad array of rights does not seem to translate into effective access to welfare benefits and services, which negatively affects immigrants’ integration. How can we make sense of this apparent contradiction?

Conventionally, studies of integration have typically followed a neo-institutionalist approach, understanding public measures for accommodation in relation to nation-specific institutional frameworks. However, although until recently there was broad agreement on the existence of three or four ideal-type integration regimes that regulate immigrants’ inclusion in or exclusion from society, a growing consensus nowadays supports the idea that integration models are obsolete (Entzinger & Scholten 2012). The usefulness of integration regimes for empirical research is fundamentally questioned because of its failure to explain change, a consequence of its over-reliance on fixed national models (Bousetta 2001; Joppke 1999), and because they imply a normative lens over reality, being themselves projections of collective identity produced
by nationalist intellectuals and state actors (Favell 2003). Moreover, the regime approach is also questioned because formal integration policies and their practical application do not necessarily coincide (Van der Leun 2003; Moreno Fuentes 2003; Bruquetas-Callejo 2012). This also holds for the Spanish case, where we observe that in spite of the entitlements acknowledged by the present policy framework of equal opportunities (PECI programme 2006), immigrants experience greater disadvantages than nationals in many fields (Moreno Fuentes & Bruquetas-Callejo 2011; Bruquetas-Callejo & Moreno Fuentes 2012). This suggests that the national integration regime falls short of explaining integration outcomes because of the presence of an implementation gap.

An alternative explanation would be to resort to the type of welfare mix that characterises Spain. The welfare regime is another state institution that has a significant influence on immigrants’ integration, as the integration of immigrants and their descendants is to a large extent a question of socio-economic participation and opportunities of social mobility. A broad range of welfare-state-related institutions (welfare policies, labour markets, educational systems, etc.) have an effect on immigrants’ economic behaviour and therefore also on their specific patterns of social integration. Spain has a Mediterranean welfare regime that has incorporated immigrant workers with a formal job into its insurance programmes and has included immigrants in its programmes based on residence. Yet, we see that in Spain, immigrants’ coverage of social risks is much lower than that of nationals, suggesting the existence of a gap between de jure rights and effective rights. Empirical demonstration of such a gap would call into question the use of welfare regimes for explaining immigrants’ socio-economic integration outcomes.

In this chapter we will discuss immigrants’ effective access to social rights for the case of Spain. Using data from our previous study on immigrants and the Spanish welfare state (Moreno Fuentes & Bruquetas-Callejo 2011), we will give an overview of immigrants’ use of benefits and services in three areas: unemployment benefits and pensions, social services, and healthcare. Our data comes from a statistical exploitation of several official data sets provided by Spanish authorities at different levels, by international organisations (Eurostat, Organisation for Economic Co-operation and Development, United Nations) and by social organisations (Fomento de Estudios Sociales y de Sociología Aplicada, foessa). Our analysis explores the importance of three sets of elements that contribute to explain the gap between rights and effective benefits: the characteristics of the welfare regime and economic system, immigration/integration policies, and policy implementation.
2.2 Immigrants’ entitlement to the Spanish welfare state

Spain has a Mediterranean welfare regime characterised by low social expenses, a strong multilevel governance and a strong reliance on the family for delivering care services. In particular, as is typical of Mediterranean welfare regimes, Spain combines contributive (Bismarckian) and universal (Beveridgean) benefits. This means that although entitlement to old age pensions and unemployment benefits depend on one’s participation in the formal labour market and one’s contribution made to social security, other benefits such as health care, social services or education are universal entitlements provided to all residents in the country regardless of their nationality.

As a consequence, immigrants access the Spanish welfare state through two channels. On the one hand, Spain has incorporated immigrant workers with a formal job into its insurance programmes through the mere application of Bismarckian principles, since those principles establish that citizens obtain benefits proportional to the contributions they make to social security. Social security is an insurance system financed through the contributions of workers and employers that offers protection for labour-related social risks such as unemployment, old age retirement, and sickness. As the basic criteria of entitlement depend on the contributions previously made, foreigners with work permit and jobs in the formal economy have always had equal access to the system. Also, non-contributive pensions and non-contributive disability benefits cover both Spanish citizens and legal foreign residents, as they are means-tested benefits granted to persons who lack contributive benefits and fulfil the necessary requisites.

On the other hand, the Spanish welfare state has extended its welfare programmes based on Beveridgean principles (such as health care, social services or education) to include all persons residing in Spain regardless of their nationality or legal status (universalist criteria). Undocumented immigrants have access to healthcare, education, social services and – for some – social housing programmes merely by registering themselves in the municipal population register, something quite unusual in Northern European countries.2

In those welfare sectors following Beveridgean principles, the extension of rights to immigrants has been the result of complex processes combining institutional inertias and historical conjunctures. The Spanish public health care system gives a clear example of the process of the extension of rights to immigrants, as it underwent a slow process of consolidation that meant the universalisation of health care in 1989.3 But this universalisation of health care coverage referred only to Span-
ish citizens due to a restrictive interpretation of the General Law on Health Care, while foreigners’ access to the public health care system remained conditioned on their contributions to the social security system.

After the approval of the 1996 Child Welfare Law and the 1996 reform of regulations for the implementation of the 1985 Foreigners Law, pregnant women and children were the first undocumented immigrants who were formally entitled to National Health System services under conditions equal to those for Spanish citizens. However, this legislation was implemented only to a limited extent, and at the beginning of 1999 health care coverage for undocumented immigrants was put on the political agenda. The debate over the Foreigners Law 4/2000 opened a window of political opportunity for the social coalition (made up of third-sector public health organisations and immigrant rights organisations) advocating for the incorporation of immigrants into the health care system. This new law expanded health care coverage to all persons who could demonstrate that they were residing in Spain and lacked resources to cover the cost of their health care. The mechanism chosen to link health care coverage with the criterion of residency was enrolment in the municipal population register, to exclude short-term visitors to the country.

As generally occurs in Mediterranean welfare regimes, social services are the less developed area of social policy, characterised by a complicated institutional organisation and inadequate funding. Article 14 of Law 4/2000 entitles foreigners legally residing in Spain to basic and specialised social services and benefits under the same conditions as Spanish citizens. Foreigners with an irregular administrative status, on the other hand, have a right to basic social services and benefits through enrolment in municipal population registers. This distinction is not based on a clear legal definition regarding the content of basic and specialised services. As a result, each autonomous community has resolved in its own way the issue of undocumented immigrants’ access to its social services network: in some regions, requirements are flexible in order to facilitate access, while in others, semi-public schemes have been established to service undocumented immigrants, often run by third-sector organisations (Rodríguez Cabrero 2003).
2.3 Effective access

Social security and contributive benefits: pensions and unemployment schemes

As admittance to benefits under the National Institute of Social Security (INSS) does not depend on nationality but on the contributions one has made, natives and foreigners with work permits and jobs in the formal economy have access to the system on an equal footing. This equal access to social security for foreign workers with a formal job means that the strong migratory flows of recent years has translated into a considerable and stable presence of foreign workers among the contributors to the Spanish social security. In the period 1996-2007 the Spanish economy created almost eight million new jobs, increasing the number of employed persons from 12.6 million in 1996 to 20.5 million in the second trimester of 2007. Half of those new jobs were taken by foreigners, which led to an increase in the number of foreigners contributing to social security from four per cent in 2001 to more than 10.5 per cent in October 2011.

What is more, the percentage of foreigners registered in the social security system in Spain has remained almost stable during the last years in spite of the economic crisis: between 10 and 11 per cent for male workers and around 10 per cent for female workers. According to figures published by the INSS, in October 2011 there were 17.2 million contributors to social security, of which almost 1.8 were foreigners. Of these foreign contributors, 81 per cent were from non-EU countries. In addition, less than 1 per cent of the recipients of pensions in Spain are immigrants. Of this 1 per cent, more than half are EU citizens: the French at 16,400 and the Germans at 9,400 pensioners come in first and second respectively on the list of foreign recipients of retirement pensions in Spain.

The importance of these figures is huge if we consider this contribution to the welfare state in relation to the expenses that immigration implies for the social state. Economic studies of the costs and benefits of immigration for the Spanish welfare state generally agree on the net contribution that immigration has brought about. According to one study, in 2009 the contributions of immigrants to social security (€8.08 million) was more than all the social expenses concerning migration (€6.50 million) (Otero 2010). As the great majority of immigrants are in their most productive years (between 20 and 40 years), they constitute a net contribution to the INSS budget, and they will continue to be for at least the next two decades (assuming that the number of immigrants remains constant).
These findings are particularly important, given that the Spanish welfare state dedicates an important share of its resources to old-age pensions. The contributions of immigrants have temporarily raised the ratio of contributors to pensioners to nearly 2.5 to 1. As a result, thanks to immigration, the Spanish pension system’s entry into a state of deficit will be delayed by almost five years – from 2023 to 2028 (González et al. 2009). This clear positive balance will not be as sharply defined in the future when the first cohorts of migrant workers who settled in Spain in the mid-1980s begin to retire. Also, the present economic crisis, which has destroyed more than 2.2 million jobs in Spain, has had a greater effect on immigrant workers, whose unemployment rate was 32.7 per cent in 2011 compared with 19.5 per cent among natives.

**Health care**

As we have seen, the public health system in Spain has gradually expanded its range of coverage to include almost all the population residing in the country, understanding that the right to health treatment is a basic human right. Nevertheless, the universalisation of the public health system has not guaranteed ‘de facto’ equity in access. Data from the Spanish Survey of Living Conditions between 2004 and 2008 show that immigrants declare that they are unable to access medical treatment more often than nationals do. And more often than nationals do, immigrant informants tend to ascribe this lack of access to the scarcity of financial resources or time.

Analysis of the data from the foessa 2007 survey provides us with an accurate picture of disadvantaged sectors access to the National Health System (NHS). While three per cent of the population above the poverty line (i.e. above the threshold of 60 per cent of the median national income) responded that they did not have access to the NHS, this percentage increases to 5.2 per cent among those below the poverty line. In our analysis, we apply Guinea and Moreno Fuentes’ categories of homes depending on the number of indicators of socio-economic exclusion that affect them. ‘Integrated homes’ are those not affected by any indicator of exclusion, ‘precariously integrated homes’ are those affected by one indicator of exclusion, ‘vulnerable’ are those affected by two or three indicators, and ‘excluded’ are those homes affected by four or more indicators of exclusion (Guinea & Moreno Fuentes 2009). According to this classification, eight per cent of the individuals living in ‘excluded’ homes declared they did not have access to the public health system; a majority of these individuals are undocumented immigrants. Similarly, 5.2 per cent of the ‘poor’ population – located under
the threshold of 60 per cent of the income median – also states their lack of access to public health. Moreover, foreigners living in ‘excluded’ homes have 9.1 times more risk than nationals to access health care through assistance schemes supplying regular health care services, and for foreigners living in ‘vulnerable homes’ this risk is a staggering 42.4 times more than nationals.

Moreover, diverse indicators show that immigrants make a differentiated use of health services. According to the 2006 National Health Survey, foreigners see a family doctor seven per cent less than the autochthonous population and a specialist 16.5 per cent less than natives. However, immigrants more often use emergency services: 65 per cent of them had access to hospital treatment through this channel against 57 per cent of natives.

Social services

Data from 2008 regarding the use of social services by immigrants indicates that foreigners represented approximately 13.7 per cent of the users recorded in the Social Service User Information System (siuss) database, a percentage close to the 11.55 per cent of the population that are foreigners in the 13 regions that participated in the database (mmps 2009). However, if we focus instead on the total number of interventions, this group is clearly underrepresented. Of the total of 2,385,683 social service interventions in 13 autonomous communities and cities, 163,308 were identified as assistance to immigrants (representing only 6.85 per cent of all the interventions).

In 2008, immigrants made up 11.2 per cent of the beneficiaries of minimum income programmes in Spain, a percentage slightly below the actual weight of the immigrant population in Spain’s overall population, which was approximately 12.2 per cent (mmps 2010). In addition, if we take into consideration the fact that immigrants represent a greater proportion of the population at risk of social exclusion, it is clear that the range of coverage of these programmes for the immigrant population is considerably below what would correspond to this group proportionately and that a significant number of immigrants are left unprotected.

2.4 Elements helping to explain the gap

The Spanish welfare state has shown its ability to adapt reasonably well to the integration challenges brought about by the settlement of immigrants in a very short span. Nevertheless, Spain immigrants’ coverage
of social risks is far from sufficient, showing a mismatch between the de jure social rights of immigrants and the de facto access to benefits. How can we explain this?

**Mediterranean welfare state**

These inconsistencies can be attributed partially to the Mediterranean welfare regime’s heavy reliance on contributive schemes. The comparative literature on welfare regimes reveals that insurance systems based on contributions have less redistributive capacity than regimes that rely more on universal entitlements, like the social-democratic welfare regimes. That means that citizens still depend to a great extent on the market for their subsistence, and that the capacity for decommodification of these regimes is only moderate.

There are various reasons why contributive schemes offer less protection for immigrants. First, a majority of immigrants find jobs in the informal sector. For undocumented immigrants, but also for many immigrants with work permits who cannot find a job in the formal economy, the informal economy is the only possibility to get a job. Workers employed in the black economy do not contribute to the social security and therefore are excluded from contributive protection schemes.

Second, most immigrants who work in formal jobs and contribute to social security have temporary jobs and are therefore entitled to only short periods of unemployment benefits or other contributive schemes. According to the National Employ Service, 60 per cent of immigrants were working in temporary jobs in 2007 against 39.2 per cent of natives. This means that immigrant workers are constantly entering and exiting the labour market (and social security), combining temporary formal jobs, informal jobs and periods of unemployment. The coverage of contributive benefits is for them only limited, as the amount and duration of unemployment benefits are directly related to the contribution they make to social security and the duration of their contribution. The dual system of protection (contributive and non-contributive schemes) in Southern European countries generates a polarisation between hyper-protected and under-protected users (Ferrera 1996), and immigrants tend to be concentrated in the latter.

The consequence of this limited access to welfare benefits is that immigrants are much more vulnerable to social risks than nationals, something that has become particularly acute in recent years due to the economic crisis. In the last five years, the percentage of immigrants receiving unemployment benefits almost tripled, from 5.8 per cent at the end of 2006 to 15.15 per cent in November 2010. As immigrants tend
to have shorter labour careers and work more often in temporary jobs than nationals, the coverage rate of unemployment benefits for immigrants tends to be relatively low. In 2010, the unemployed foreign population had a coverage rate of 40 per cent, notably below the 78 per cent of unemployed native workers. What is more, from 2010 onwards the percentage of foreign workers protected by unemployment benefits has started to drop dramatically, since the period of perception of contributive benefit was finished. Also, the tendency of Mediterranean welfare regimes to leave many services up to families and social networks implies that immigrants are less protected against social risks since they have weaker social networks.

Spain’s economic structure and immigration regime

The coverage that welfare systems offer to immigrants depends greatly on two interrelated factors: the country’s economic structure (including its labour market) and its immigration regime. On the one hand, the economy and the welfare state need to be seen as two sides of one coin. The important role of the informal economy within the Spanish productive system and its demand for low-skilled workers represent an institutional inertia hindering the access of immigrants to insurance programmes. Although by its very nature the informal economy is difficult to quantify, various authors estimate the size of the Spanish informal economy to be between 20 and 23 per cent of GDP, which is high compared with the European average of 14 per cent in 2010 (Schneider 2010). As we saw, those welfare states that rely strongly on contributive schemes and with large informal economies offer the least protection to immigrants, since immigrants are most likely to work in the deregulated sector and the right to welfare is conditional upon participation in the regular labour market. The immigration regime reinforces this tendency by denying or limiting certain categories of immigrants (such as asylum seekers or family members) the right to work, which effectively drives them to work in the informal economy, thereby excluding them from the contributive protection schemes.

Policy implementation

The process of implementing policy is to a large extent responsible for the mismatches between immigrants’ rights and their actual rights. One element contributing to the creation of an implementation gap is bureaucratic discretion. The application of policies is ultimately in the hands of low-level bureaucrats who are in direct contact with the citizens
and who are the ones allowing or hindering the effective translation of rights into facts. Although we lack qualitative data about the practices of low-level bureaucrats, our findings suggest a significant amount of discretion and discrimination in the process of granting benefits. Some comparative studies explain the higher levels of discretion in Southern European countries as being the result of the lenient bureaucratic style typical of these countries, in contrast to the more rigid style exercised by their Northern European counterparts (Jordan et al. 2003). In contrast, recent comparative studies considerably nuance this explanation in terms of bureaucratic cultures, showing instead that the high level of discretion in Southern Europe is a response to the under-resourced, demanding working conditions that low-level bureaucrats face, which leads them to develop ‘coping practices’ (Bruquetas-Callejo 2012).

Moreover, the decentralisation of policies also contributes to the discontinuity between policies and practices. The high degree of decentralisation of integration policies in Spain implies extreme inequalities between regions and cities, as some have more resources to develop programmes than others. Immigrants living in different areas do experience considerable differences in their access and coverage to welfare services (Martínez de Lizarrondo 2006). Differences in implementation are the result of political decisions by local or regional authorities, and even national policies are interpreted and applied quite differently. The procedure for enrolling in the municipal register – which might seem to be a simple and straightforward matter – is an area in which politicisation or bureaucratic discretion can interfere with the effective access of immigrants to services such as health care, social services or housing programmes. In recent years some municipalities have blocked undocumented immigrants from enrolling in the municipal population register, contravening Spain’s Basic Law on Local Government. Obtaining the necessary health care ‘card’ depends on the requirements imposed by officials of different government levels in the process (the INSS, regional health services, state tax authority and municipal governments). Another example of the variation that multilevel governance introduces in policy implementation is the reform of the General Law of Health Care recently passed by the Spanish parliament. According to this reform, undocumented immigrants are no longer entitled to health treatment. However, not all regional governments are equally willing to put this in force. Five regions have already declared that they will continue offering health treatment to undocumented immigrants, in effect ignoring the reform.

The multilevel governance pattern of the Spanish welfare state is also characterised by the participation of third-sector organisations
as executers (and sometimes as formulaters) of policies. A majority of regional integration policies aims to offer equal opportunities (Martínez de Lizarrondo 2006), applying an individualist-universalist approach to rights. This is to be achieved by a strategy of 'normalisation', which sets out to improve the socio-economic mobility of immigrants through mainstream services for the general public instead of creating special schemes for immigrants. However, the majority of regional integration plans concern measures dealing with social services and are located within the social service departments. As a consequence, integration follows the modes of functioning typical of those departments that put the application of integration measures into the hands of social organisations (Carrasco & Rodríguez Cabrero 2005; Tamayo y Carrillo 2002), which differentiates further the process of policy implementation, often introducing special programmes for groups with specific difficulties.

Notes

1 Following Penninx (2001), ‘non-policy’ – i.e. not having an explicit integration policy for immigrants – also has to be analysed as a policy.

2 Per 1 September 2012, legislative changes are being implemented in order to exclude undocumented immigrants from health care services. However, this measure has provoked considerable opposition: five regions have refused to apply it and many professionals in the health care sector are calling for civil disobedience.

3 Until the beginning of the 1950s it was composed of a multiplicity of social insurance schemes that were gradually merged, becoming a relatively unified system within the social security system (the Spanish National Health System) in the second half of the 1980s.

4 For those excluded from national health care services (e.g. undocumented immigrants) several NGOs provide health assistance.

5 Social security contributions entitle to receive unemployment benefit during a specific period. After that, unemployed workers can receive social assistance benefits for unemployed.

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