

MIGRANTS COPING WITH LEGALITY: THE VIEWS AND EXPERIENCES OF OLDER PERUVIANS AND MOROCCANS

Angeles Escrivá

ABSTRACT

Migrants' and their family members' living conditions in origin and destination countries have come to depend very much on how they cope with the laws and legal systems that affect them. Attached to the importance of acquiring a legal status, there are specific areas of juridical and administrative regulation that are of enormous interest for older people living in a family context of migration, such as pensions and the capacity to move to be closer to loved ones. Based on qualitative research with people aged 50 and over in Spain, Peru and Morocco, the article explores older individuals' responses to the legal frameworks, and, especially, inquires on the practices that help them benefit from or overcome the laws. It reveals that, as a result of states' unclear legal actions, together with the desire to overcome barriers in these specific areas, interviewees are forced to act against or at least partially behind the law.

Keywords: Mobility, Welfare Provisions, Legal Actors, Arbitrary Enforcement

JEL Classification: K490, J610, I38

1. INTRODUCTION

Laws and regulations determine individual and family life everywhere. Societies and groups within them, however, develop an array of norms and spaces for legality and illegality with different tolerance thresholds to deviances (Sampson and Bartusch, 1998). It is widely acknowledged that what is or is not acceptable or approved of depends on cultural as well as structural factors framing people's living possibilities. In line with the extent of crime that goes unpunished and the informal economy in developing nations in Africa or Latin America, Southern European countries like Spain have also been characterised by the high levels of irregularity existing in their labour markets, corruption and other offences (Sanchís, 2005). Nonetheless, in recent decades, as a growing number of the immigrant population has been settling on Spanish soil, an increasing regulation of non-Europeans' mobility, and of their access to economic and welfare resources, has also occurred (Zapata-Barrero, 2009).

In principle, more complex and diverse societies require increased regulatory effort in order to guarantee that the various groups live together harmoniously. Many people, however, perceive the intrinsic unfairness of laws that are protective for some and basically punitive for others (Tyler, 2006). In so far as individuals are positioned in stratified social structures, these social disparities are reflected in the legal systems that harm the less powerful social groups. Gender, ethnicity or age are main social markers that contribute to social inequality. Studies show that disadvantages tend to grow and overlap among migrant and ethnic minority populations (Bolzman *et al.*, 2004).

I presuppose this happens to older migrants in Spain and migrants' older relatives in their countries of origin. Fragility because of age, and ageism or discrimination towards the elderly, may interact with other sources of disadvantage, such as anti-immigration feelings or gender and ethnic discriminating norms and practices that transcend nation-state borders. It is therefore in the context of contemporary global interdependencies and transnational social fields of action where we can observe the opportunities and restrictions that laws pose for family life and more specifically for the wellbeing of the older generation.

Bearing these considerations in mind, a research project was carried out starting in Spain and following on fieldwork in Peru and Morocco between 2006 and 2010. While the research provided wider types of data and insights, in this article I go through a number of in-depth interviews in order to explore the connections between law, ageing and migration, and more specifically how families and older people cope with laws and regulations. In addition, I examine the legislation, official documentation and other information that was produced over the period in which these migration flows evolved. All the material is reviewed in order to address these two broad questions:

- What are the characteristics of law systems that (trans)nationally affect older individuals and their families inserted in migration processes?
- What are the responses from older individuals and their families to the legal frameworks, and, especially, to those practices that help them benefit from or overcome the laws, in order to improve older people's lives and chances?

In light of the data gathered, in the following sections, the legal systems' inner workings are characterised as mechanisms that are both weak and strong. As a matter of fact, a growing bureaucracy and a tightening of regulations and norms that govern all life spheres, including migration management, are often accompanied by a weaker and somehow arbitrary enforcement (HRW, 2002). Looking over the history of Peruvians' and Moroccans' migration to Spain there are plenty of cases where families have taken good advantage of favourable or lax law enforcement. There are, of course, many cases of failure to access the benefits of migration because of impenetrable legal controls. Nonetheless, selected examples in the final two sections show that as a result of states' unclear legal actions, together with migrants' desire to contribute to transnational family making in order to guarantee an acceptable level of wellbeing for their most vulnerable, family members try to cope with the legal constraints that older people face, in some cases acting against or at least partially behind the law. In this article, attending to the most specific areas in which migration affects older people's wellbeing, I focus on those legal practices undertaken to boost mobility and pensions.

2. LAW SYSTEMS AFFECTING THE GOVERNMENT AND LIVES OF OLDER PEOPLE IN MIGRANT FAMILIES

Throughout history, in their intention to control people's behaviours elites have conceived norms and structures that frame their subjects' life opportunities, running the destinies of the less fortunate or the more vulnerable (Mills, 1956). Modern countries are characterised by an impulse of a fast growing jurisprudence applied to those who nation-states consider as their incumbent populations. With increasingly centralised and powerful states, more and more control functions on aspects such as birth and death, health, housing, or education are assumed (Vázquez, 2009). Nowadays, many states' laws particularly address the circumstances of women, underage, senior citizens or non-nationals, generating differentiated social dynamics.

As a matter of fact, European welfare states have, in Vallejo's terms, "submitted different populations to different subjectivation regimes" (2004). In a Foucaultian analysis of

the governability of migration, Vallejo attests that while domestic policies deal with the development of their “human capital” with protection and manipulation regimes (Rabinow, 1984), immigration policies are part of an assignation regime whose function is the provision and discipline of a cheap and flexible labour force in countries like Spain. In this context, governments show a preference for a younger immigrant labour force, discarding other age groups. Migrants’ older relatives who do not constitute the imagined targets for legal immigration are indeed denied entrance in many countries by law or by discretionary procedure in applications resolution. Likewise, laws addressing welfare provisions for aged migrants tend to be restrictive, encouraging return migration, and consequently a disengagement from the host country’s acquired citizenship rights (Böcker and Balkir, 2012). The biopolitics of older people¹ connected to migration is constructed on a highly utilitarian view, tightly linked to the fact that population ageing is regarded as an increasing demographic, economic and social threat for all states, but especially for the fast-ageing societies in Europe (Vincent *et al.*, 2006).

Additionally, any consideration of the biopolitics exercised on older people living in migrant families and contexts has to take into account the maintained transnational links between origin, transit and destination places. Although laws tend to be directed at those living in a national territory, and do not usually consider the circumstances of migrants’ relatives back home, transnational application and surveillance of laws seems to be in the limelight (Gamlen, 2006). Territorially-centred legal views are being over-ridden as migrant/expatriate communities grow in number and recognition. Both destination and sending countries struggle, on the one hand, with their desire to capture their economic, social or political potential and, on the other, with their aim to reduce migration’s unwanted social costs.

Having said this, a growing jurisprudence that regulates migration, either with national or transnational application, does not guarantee that this is perceived as coherent, timely and just. Bookshelves are full of regulations that have been approved at various stages, that then contradict themselves and require revision just a few years after being passed (Aja, 2010). The fact is that societies transform at a quicker pace than laws. Only in some instances laws precede factual societal changes. This happened to Spain at the time of its incorporation into the European Union as a wider legal framework, a process that needed the harmonisation of the national legal instruments (Borrás, 1995).

In addition to written laws, their enforcement is contingent on interpretations, resources and scenarios. Drawing from Pound’s classical conundrum between “the law in the books” and “the law in action” (1910), Schuck notes a third further distinction as the “law in their minds”. According to this author, the law as formally enacted almost always differs from the law as actually implemented (Schuck, 2008) because its meaning depends on the actions of the state and non-state entities charged with carrying out the law. The fact is that many groups of actors in the immigration system see different aspects of the system or see the same aspects differently. This situation aggravates by laws that define migrants in multiple, intersecting and often indeterminate ways (Coutin, 2011).

Moreover, the analysis of the implications of any law and its variations over time has to take into account as much the performance of law enforcers as ordinary people’s capacity to abide by or circumvent the law. Schuck (2008) provides the example of the US migration system that, according to him, is characterised by its “failure” to enforce immigration law, due to the different interpretations and considerations coming from officials in charge, the contraforce of human rights groups and ethnic solidarity networks and, no less importantly, an administrative overload or lack of resources.

¹ Biopolitics here translates Foucaults’ view of power centered on people’s bodies as a machine, intervening in its disciplining, the optimization of its capabilities, the extortion of its forces.

According to ethnographic studies, pseudo-legal practices have found a good market for their illicit business among many of those immigrants who have not been able to avail themselves of legalisation programmes, nor find any other means of obtaining legal status, but to buy fake documents and present them to their employers and the authorities (Calavita, 1998; Sabogal and Núñez, 2010). In the application of the laws legal actors are also confronted with a number of obstacles such as, people who make a business out of issuing permits for travelling to and staying in the destination country, or the inconvenience of persecutions that have turned into illegal, heavily penalised activities, despite humanitarian grounds. Authors such as Kyle and Dale (2008) have pointed out as well that it is not only criminal organisations but also other actors such as regional elites, states and corrupt state officials, employers (and “slave holders”) who drive increases in the levels of human smuggling or illegality. However, as our data show, and in accordance with Gonzales (2011), just as with ordinary citizens, immigrants’ experiences of illegality finally depend on specific, situational contexts, and only become salient when matched with experiences of exclusion. And thus, in line with studies on older people’s quality of life and wellbeing (São *et alii*, 2013), experiences of coping with the law are to be understood here through those older people’s voices that are often unheard in legal and social science research.

3. METHODS AND DATA

This article draws mainly on qualitative data gathered during the course of research on ageing and migration to Spain, from the 1990s up to the 2010s. First observations were collected early in the 1990s at a time when Peruvian migration to Spain started to be numerically important. The Moroccan case study was incorporated at a later stage, starting in 2006, with the aim of comparing both groups.²

For the core interview period we collected 25 and 23 narratives from each group of Peruvians and Moroccans aged 50 and over respectively. Interviewees were contacted through key informants and applying the snow-ball technique. Peruvians and Moroccans were selected on the basis of fulfilling one of the following profiles: a) one third have aged in Spain, b) another third have migrated to Spain at an advanced age, c) and the other third have children living in Spain. Interviews were recorded, transcribed, translated if necessary, and later analyzed using a thematic approach by codifying units of meaning with the help of Atlas.ti software programme.

The number of Moroccans and Peruvians falling into these categories has been difficult to determine. With regard to migrants who have aged in Spain, having arrived at a much younger stage in their lives, we have to acknowledge that the available data does not include those who have acquired Spanish nationality during this time. This number should not be underestimated, especially among Latin Americans, who, as a consequence of preferential legislative treatment, can apply for Spanish nationality after just two years’ legal residence. If it is difficult to find out with any accuracy how many live in Spain, it is even more difficult to know how many older parents remain in Peru and Morocco while their children stay abroad. Finally, data on later-life migration is obscured by the number of those who overstay their tourist visas and remain undocumented, or the impossibility of getting official figures on how many Peruvians and Moroccans have reunited with their older parents throughout the period.

All in all, the official statistics show that in December 2006, 91,000 Peruvians and 550,000 Moroccans were registered as residents in Spain (INE). In June 2012 those numbers

² In the period 2006-2009 the research topic benefited from a grant from the Spanish Ministry of Science. The research project awarded a grant was intitled ‘Growing older in a context of international migration’ officially conducted during 2006-2008, with the support of the Spanish Ministry of Science and Innovation [i+d SEJ 2005-04815] and European ERDF Funds. Early 2009 additional funds allowed follow-up activities.

had risen to 141,000 and 850,000 respectively (INE). Even if the percentage of those aged 50 or older is low – around 10 to 20 percent of total population – in absolute numbers these citizens are notorious for their quantity and characteristics (Escrivá, 2013b). Other relevant information was drawn from immigration officials and other key informants, as well as from documents such as legislation and agreements between countries, official evaluations, and non-governmental information sheets alluding to the legal situation of older people; a material that was checked and contrasted.

4. PERUVIAN AND MOROCCAN MIGRATION TO SPAIN: A LEGAL PORTRAIT

Over the past two or three decades Spain has been articulating a series of norms that regulate international migration as well as state social policy. According to López (2005), immigration has become a motor of institutional transformation and legal-bureaucratic production. In so far as Peruvians and Moroccans are among the longest-established migrant communities in Spain, these groups have experienced changing legal scenarios and have become more astute in the matter. Not surprisingly, two-generation migrant families refer to how the younger generation today suffers harsher legal barriers than the older first generation did when they entered Europe early in the 1980s and 1990s. Older people acknowledge these changes as they recall a time when no formal obstacles were enacted to crossing the border (by land, sea or air) into Spain, when controls were looser, or migrating was officially promoted and planned.

From the late 1980s to 2009, compared to other European countries' policies, migrants in Spain and their families benefited from a relatively more open system of newcomer acceptance and recognition of citizenship rights, applicable to people from a large number of countries and continents, albeit that there was special treatment handed out to individuals from Latin America (Izquierdo *et al.*, 2002). The historical links between Spain and its former overseas territories across the Atlantic had resulted in a number of bilateral agreements with almost all Latin American countries with regard to citizenship procedures, including a faster process in acquiring the host country's nationality and the possibility of maintaining double nationality. Early on, in addition to nationality laws, agreements with a few countries, including Peru, settled on a norm to avoid the discrimination of citizens from one signatory in the other signatory's labour market. As welfare systems developed, bilateral agreements including both Peru and Morocco came to incorporate social security provisions and pensions. In Spain the right to non-contributory pensions is fixed in a law of 1994, although to qualify there will soon be a legal requirement for non-Spaniards to have been in continuous residence in the incumbent city or region for at least ten years.

Further to specific agreements, immigration laws³ came to be less restrictive in their application to Latin Americans than to other groups, such as Moroccans, even though they were the most numerically important immigrant group in Spain. For a long time Latin Americans could access the country without a visa, and nationals from some countries still can. Once in Spain they could regularise their status and bring their loved ones to live with them, including their parents; and in spite of all the obstacles, their degree certificates and driving licences would be more easily recognised and validated; they would be first when it came to grants, social benefits and social assistance such as non-contributory pensions being assigned. Although many Moroccans also got to benefit from these improvements, a review of more than 20 years of Moroccan-Spanish border and migration management concludes that the will to soften the requirements and speed the bureaucratic procedures from both

³ See the *Ley Orgánica 4/2000, of January 11, on Rights and Freedoms of Foreigners in Spain and their Social Integration* plus successive amendments.

sides has come to depend very much on the changing climate of political and social relations between the two states (Sanchez and El Fathi, 2007).

The countries of origin's laws have likewise experienced adjustments in considering the effects of strong international emigration flows. Sending nations have legislated with regard to protecting their citizens abroad and their families at home, establishing stricter border controls in response to EU demands, or providing information and counselling to migrants, including incentivising remittances and return, among other issues⁴. Our informants highlighted, however, that the application and surveillance of the laws have been weak and prone to discretionary and corrupted use.

Trying to abide by or circumvent the law usually means spending money, an amount that far exceeds many families' economic possibilities and ends up impoverishing them. This money is devoted to paying taxes (i.e. consular fees) and social security costs, even if migrant workers earn very low salaries and, sometimes, under what is stipulated in their contracts. Additional resources have to be spent with intermediaries who facilitate the visas or any other kind of formality with either the Spanish or the country of origin's authorities. Practically every step in the migration's legal maze requires financial expenditure.

To make matters worse, officials and administrations have too often proved to be inefficient in the management of much of the paperwork that is essential for migrants. The analysis of how governments have brought into operation bilateral social security agreements between Spain and selected Latin American and African countries offers an excellent case. While in theory these agreements allow for adding the years contributed in the country of origin to those in Spain in order to accrue and calculate the amount of a pension, Díaz-Gorfinkel and Escrivá (2012) detail how processes of recognition are often too long and complicated, due to lack of will, capacity or ability of national administrations to work beyond their territory. The whole process is deteriorating even further in the new context of recession and checkmate on public pensions, according to what our informants say.

5. MIGRANT FAMILIES' RESPONSES TO LEGAL CONSTRAINTS ON PENSIONS

The pension situation of older Peruvians and Moroccans in Spain and migrants' relatives in Peru and Morocco is diverse. In some cases the right for a pension had already been achieved before migrating. The case of Peruvian migrants is paradigmatic, as analysed in Escrivá and Vianello (2013). In the early 1990s Peruvians employed by the state, in public administration, banking, health and education services in Peru could, or were obliged to, retire with a small pension or one-installment compensation, after a certain number of working years. Given the low salaries, huge inflation and the wish to engage in self-employment activities in Peru, or to migrate and help others do it, I came across several cases during research conducted in the early 1990s of migrating pensioners who mostly found employment in Spain in the cleaning and care industries.

Interestingly, those migrants' pension incomes often remained in Peru and helped others survive, such as dependent children, partners or older relatives. In this latter case the money functioned as a sort of non-contributory pension granted not by the state but by ageing migrants⁵ to their often ailing parents in their seventies and over. This cession to the "left-behinder" kin of the right to claim a pension or a rent accrued in countries of origin has often been overlooked in studies on migrants' financial contribution. Rather these studies have made the monetary remittances that are transferred from abroad the focus, making the

⁴ For regulations and actions of both states see the WebPages of the Peruvian and Moroccan Ministries of Foreign Affairs.

⁵ The term refers here to migrants who first move abroad being between forty and sixty years old, similarly to those described by Deneva (2012), and who usually have children, even grandchildren, and older parents alive.

assumption that because many older people were not principal receivers of these currencies they had been marginalised from the distribution of family gains.

As is more often the case, migrants have arrived in Spain without having contributed at all or enough to a pension in their homeland, and, in fact, may not even have reached the minimum retirement age. The possibility of completing contributions for a pension, or of qualifying for a non-contributory one abroad, has depended on several factors, including the holders' ability to keep a legal status gained individually or thanks to their families, and their economic capacity.

A good example is that of a Peruvian man with whom I have met on several occasions over the last ten years. Before arriving in Barcelona in the 1980s he had taught and worked as a journalist in Peru. In Spain he performed many different tasks, mostly self-employed, although when I first met him he had been working as a concierge for a while. More recently, and approaching his 65th birthday with no decent health and job prospects, he realised that due to mishandling of his work records in Peru, he did not have enough years of contribution accrued on the social security scheme. As a last resort, and in order to comply with the required contributory period for a pension in Spain, he persuaded his ex-wife, owner of a well-known restaurant in Barcelona, to contract him for a few more years.

Given the relatively moderate number of contributory years that had been required for a pension in Spain (minimum 15 years) before pensions' reform started, Peruvians and Moroccans aged 65+ who had been working in the formal economy until circa 2010 nowadays enjoy a pension. Immigrant pensioners we interviewed are resentful, however, that their monthly income tends to be below the Spanish mean amount, given the fewer years accumulated, the lower salaries, or the limited contributions accrued by their employers in their previous occupations. Besides that, in the midst of an economic downturn, eligibility requirements for a pension are on the rise, while difficulties in continuing to contribute are abundant, because older migrants are doubly disadvantaged due to ageism and xenophobia. This explains their high un- and under-employment rate in the informal economy.

"I worked in Almeria for more than 15 years until I became unemployed because, being older, no one wants to employ me... Older people could get contracts but since last year, not anymore. I returned to Morocco and I have been receiving the unemployment money for a year. Now I have travelled to Madrid to fix my pension papers" (Moroccan man, 65 years old, recent returnee to Morocco, worked in agriculture in Spain).

Even if pensions amounts are low they are central to facilitating the return projects of older migrant workers. Contributory pensions and the rights attached to them in principle can be carried both to Peru and Morocco as signatory countries of social security agreements with Spain. Relatives attached to the pensioners may enjoy these rights as well as help meet the requirements, as shown before. Nonetheless, in addition to the administrative incapacities, and in spite of the legal possibilities of transferring pension benefits to close relatives, sometimes migrants' legal tricks undertaken in order to gain access to work and migration abroad, or to smooth transnational living, end up catching them out in later life, as in the following case.

"My wife never wanted to come with me to Spain, she does not like travelling. If she had come, now she would have papers... Because they asked me if I had a wife and I answered no, knowing that if I had said yes, they would have asked me to bring her and bring her papers. But she doesn't have any, so I answered that I was not married... Now I am worried about what will happen to her tomorrow (if I die) because she will not be able to keep my pension" (Moroccan man, 65 years old, recent returnee to Morocco, worked in agriculture in Spain).

This testimony contradicts the general view offered in literature about how Moroccan men reject regrouping with their wives in destination countries (De Hass and Fokkema,

2010) with obvious implications for women's options in qualifying either for a contributory or a means-tested pension. Here the informant regrets not having officialised his marriage situation in Spain before, and, as a result, he has searched for legal advice to try and modify it now to comply with Spanish regulations.

Likewise, older Peruvian and Moroccan parents who were officially reunited with their adult children and had no chance of working for a salary in Spain have the option to claim for a means-tested pension. While this money has become essential in completing family income, there is, as yet, still no legal possibility for pensioners to take this type of pension with them out of Spain and that restricts the elders' living options. Previously, fewer border controls allowed pensioners to move back and forth without losing any rights they had accumulated. More recently, stricter controls by the local police and at airports have started to make it more difficult to overcome travel barriers.

In this complex scenario, and as a precaution to return to the country of origin or harsher pension conditions, fieldwork showed that some migrants continue contributing to their country of origin's social security system, or combine contributing to the public and to a private pension scheme in order to guarantee good support both here and there. These cases are more abundant among Peruvians, given that, in my view, Moroccans tend to trust more in the state's protective function as a result of different experiences in origin and destination countries.

"I try to save all I can and I expect to get a pension, a Spanish one and a Peruvian one. I continue paying in Peru. It is not much, I may get about 120 euros a month later, but it is something... I do want to keep living with my wife and remain economically independent" (Peruvian man, 54 years old, 17 years in Spain, 2 grown-up children in Peru).

It would seem that, life abroad entails a transforming experience that helps contribute to a better preparation and evaluation of the different options when it comes to retirement. Contributions to more than one pension scheme and the practice of asset diversification might be considered excessive in a legal and political context that promotes social security agreements between Spain and countries such as Morocco or Peru in Latin America. Interviews reveal, however, that people distrust or are unaware of the agreements' terms and guarantees. An increasing number of cases of claiming pensioners who cannot get their condition recognised is causing alarm among their compatriots about the administrative difficulties of making the law work in practice. Moreover, maintaining transnational lives, it is recommended that one should secure minimum coverage wherever it is available.

In a different position are those older persons who remained behind and, though could not make savings or contribute to a pension, they trust on the inter-generational solidarity. As the following informant exemplifies, older people place their hopes on their migrant children who become the security for tomorrow's family income.

"As I get old I expect that all my children will help us. All will send an amount. Every month a different one remits... I am positive about the future. We had a bad time before but now we are OK, my children will help us" (Moroccan man, 60 years old, Tanger, 4 children abroad).

For this reciprocity money to flow an array of conditions is necessary, to name but two of the most essential: the migrant children have to obtain enough income to cover their own basic needs and those of the new families they constitute (Baykara-Krumme, 2008); and the sense of obligation and devotion toward the older generation has to be maintained over time in spite of the distance. Continued communication and physical visiting, whenever possible, help to keep family ties vivid.

6. MIGRANT FAMILIES' RESPONSES TO LEGAL CONSTRAINS ON MOBILITY

Family members who can afford regular or occasional visits to their kin living abroad are sometimes the middle generation, but more often than not are from the older generation. As a time- and money-consuming task, travel is often impossible for adult children who have to work for a salary or for the family and who do not enjoy much spare time. By contrast, older people who are in good health may have better availability, they may even get tourist visas more easily and be entitled to discounts. Indeed, older people's capacity to move between the country of origin and destination is very much praised among our interviewees. The seniors can visit their children and relatives living in another country and be there for the important occasions: weddings, births and child rearing, or sickness. Sometimes they give a temporary hand with housework or with the family business. On other occasions, the older people are the ones that seek company from their loved people, including emotional and material support (Díaz-Gorfinkel and Escrivá, 2012; Nedelcu, 2011).

Over the years, I have come across migrants in Spain, especially of Latin American origin, who have been able to call upon their older parents to come and stay with them for short or long periods, depending on their visas and stay permits. The idea of moving more or less temporarily to Europe and specifically here to Spain is fuelled, not only by the presence of the children but also by the desire to travel to what are considered more developed nations, those offering quality services for everyone, especially for the elderly. A good portion of our informants staying in Morocco or Peru hold the idea that their contemporaries who live abroad are in a better situation than themselves, as the following words reveal.

"Older people who live abroad are in a better situation. There are subsidies for the elderly, for everything. When I was younger I did not think about moving out, and now that I have grown old I would like to, but I am not healthy enough to go and work" (Moroccan woman, 58 years old, Tetuan).

Older people's bad state of health, however, is often not the main impediment for travel. In spite of the older cases of successful visa-applicants, many other advanced-age Peruvians, and especially Moroccans, are and have been denied authorisation to enter Spain over the years, under the assumption that their intentions are to stay permanently, to search for a job or overuse public services. This presupposes that everyone wants to go further than simply benefiting from temporarily visiting each other, which is, of course, too much of a generalisation.

"I applied for a visa but they denied it. They said that they could not be sure that I would return home, because we do not have enough means to live on here, according to them (to Spanish Consulate officials). They asked me to certify an amount of money in the bank... Yes... If I have to go to visit my children, of course I will do so, but not to stay there, I could not get used to living there" (Moroccan woman, 65 years old, Tetuan, 4 children in Spain).

Visa-applicant families find themselves, in fact, in rather different situations according to their economic and social status. Being able to prove a substantial amount of money and valuable property, as well as having good connections inside the consulates, help enormously in obtaining the legal authorisation to enter Spain. Nevertheless, there is a contradiction between the requirement for older persons of proving "sufficient" economic means for a visa to visit their children, and the opposite that is proving no personal economic means at all, to enable family reunion with an older parent, under the following terms of the law.

The Spanish Royal Decree-Law 557/2011 of April 20, 2011, article 53, section e) states: "Alien citizens may reunite their direct ascendants with them in Spain if the applicants are in charge of them, they are over sixty-five years of age and there are reasons that justify the need to authorize their residence in Spain (...) Authorities may consider as such the fact that the ascendant was living with the applicant in the country of origin at the time that the

latter obtained his permission, that the ascendant is not able to live alone, and guardianship was granted by the competent authority in the foreign country to the resident or their spouse or regrouped partner, or when the ascendant is not objectively able to provide for their own needs. It is understood that the ascendants are economically dependent on the applicant upon proof that, at least during the last year of the applicant's residence in Spain, he or she has transferred funds or incurred costs of his family, representing at least 51% of gross domestic product per capita, calculated annually, of the country of residence of the latter". (*My translation*).

In response to these new requirements in the family reunification law, together with the new economic scenario in Spain, migrants who still expect to obtain stay permits for their older parents have intensified their remitting efforts. Instead of saving, spending or investing in Spain, they remit the maximum they can, apparently only for consumption at home, in order to generate as much cash flow as possible with kin living in their countries of origin.

Another restriction on family reunification and visiting has been imposed on the basis of being able to provide adequate housing for the elders intending to be brought to Spain. This adequate accommodation has to be offered in a separate room within a flat of the regrouping person's own property. "We could not go to visit my brother in Spain because he still doesn't own a place. We would love to but we can not because in order to get a visa to visit him he has to own a house" (Moroccan man, 50 years old, Tanger, a son and other relatives in Spain).

The requirement of home ownership, in addition to the facilities to get a loan, has, over the years, impelled migrants to buy instead of rent a flat in Spain. By complying with the law, such an extended practice has allowed the mobility of close relatives for a given period. But because of the difficulties in reselling these properties, home ownership has more recently obstructed migrants' new mobility needs within and outside the national territory as they search for work in the heat of the recession.

Finally I would like to add that, in the absence of valid travel documents or in order to stay for longer in Spain, some interviewees support the use of fraudulent alternatives. In response to permit restrictions, such as stay permits of regrouped parents that do not allow absences from Spain of more than six months, families have been arranging, for example, for the relative to re-enter European Space through another country where permit conditions are unknown. Obviously, case by case, airport officials have become more aware of the exit limitations and entrance requirements imposed by the Spanish authorities and have started denying entrance to passengers in transit, according to a statement from a Peruvian lawyer in Barcelona who deals with cases of deportation.

In addition to irregular border crossing, a frequent route for entry into Europe has been to obtain, by any means possible, a valid visa for tourism or family purposes and then overstaying. As the following case illustrates at length, this action causes the older person to be in a state of semi-legality (Kubal, 2013), starting with the means used to obtain the permit, then infringing the destination country's "Law on Aliens", and leading ultimately to unwanted consequences for people's life possibilities. Constraints on mobility indeed affect not only the first entry to a desired new location but also the capacity for the unauthorised person to leave and make new entries.

"When my sister and her husband wanted to travel to Spain, the Consulate rejected the visa. They spent a lot of money on that for nothing. Then an acquaintance of theirs who also had contacts there intervened. The Consulate called them to go on Wednesday and on Friday the visa was ready...

...After two months of my sister and brother in law's trip to Spain, the Consulate (in Morocco) started calling and asking where they were, telling me that they would be

denounced for not having returned. I told them that I knew nothing about it and that I could do nothing and they stopped calling me...

...My sister is now awaiting her residence papers. She only wants her papers to be able to come and go whenever she wants to visit her children. Now, for example, her son is getting married here in Morocco and unless she receives her documents she will not be able to come"

(Moroccan woman, 68 years old, lives in Tetuan at her sister's house. The sister and respective family -husband and four children- live in Spain).

Two things from this case have made a particular impression. One is that legal actors such as the authorities in origin and destination countries are also involved in irregular procedures. We don't know if there is any real prosecution of those who, inside or under the protection of official premises, facilitate visas and other valid or fake documents, against the payment of extra money or other favours. Indeed, we are only alerted to any law infringement by pieces on the news, and in politicians' speeches. Infringements by ordinary people who may ultimately have far fewer bad intentions than the corrupt officials and other "professionals" who make their business out of other people's woes. Secondly, the state of migrants' semi-legality can be reverted or be maintained over time depending on the broader contexts with regard to migration and the economic and political situation. The current scenario in Spain and Europe more broadly threatens to lead people on towards an increasingly precarious state.

Although the previous testimony does not offer a continuation of the wedding party in Morocco, it leads me to draw a parallel with the impressive case of a very risky border crossing, told in González Iñárritu Hollywood movie, "Babel" (2006). This movie tells the story of an undocumented Mexican domestic worker in her late 40s or early 50s in the United States who travels to Mexico for her son's wedding, and during her attempt to return ends up in jail accused of kidnapping her employers' children. The picture is a clear example of how every actor in the scene has a different understanding of events and reacts to them accordingly: the US authorities accusing her of all possible offences and punishing the undocumented migrant; the Mexican woman who tries to keep both commitments with her son and her job, astonished and ashamed for being unfairly accused of illegal activities; the children's parents with indulgence, as they have just dramatically experienced hardship in their struggle with the US and the Moroccan social, political and legal (dis)orders.

7. CONCLUSION

The growing corpus of norms and regulations regarding incoming and outgoing international migration in the three countries revisited contrasts with the weaker enforcement or corrupt nature of the system that has enabled different ways of combatting the legal barriers on migration controls, or of benefiting more broadly from welfare and social protection that new restrictions impose.

Law infringement and the profiting of legal loopholes are not necessarily regarded by Peruvians and Moroccans as illegitimate acts, in fact, since they do not differ all that much from the irregularities which other, legitimate, migration actors carry out (employers, public servants or police) as part of a continuous space of "semi-legality".

As a matter of fact, older people are not simply victims of norms that govern societies. They can act within the interstices of the system, because the system fails and offers these opportunities. Following Kubal's considerations (2011), I can confirm that migrants' interaction with the law ranges on a scale between opportunism and exploitation. Throughout the article I could illustrate how families adapt to, or circumvent the law in the areas of pensions and circulation.

The article goes on to remark on individuals' agency within given legal limits, in order to make good use of the opportunities that are available. For this analysis I used elsewhere the asset accumulation frame that enables the confirmation that in their objective of improving their lot and the well being of loved ones, family members have to accumulate and transfer assets intra- and inter-generationally and over time (Escrivá, 2013a). The law is a main factor facilitating or inhibiting these asset accumulation strategies. Rights and entitlements acquired because of legislation applicable to citizens of immigrant origin are also assets that are transferable to relatives living close by or far away, in direct or indirect ways (Zechner, 2010).

However, not everybody has enough information or the ability to use the available resources strategically. There is a real danger that more restricting immigration and social policies as well as further border militarization will put families in greater risk. As our follow-up activities show, these situations have aggravated in Spain on the heat of recession. In addition to laws, there are other factors that undermine the possibilities of favouring the significant others. Although these questions could not be further explored here, economic constraints as well as social or personal considerations about what is appropriate for each gender or generation in a family are also influential.

What is specific to the cases presented here is how legislation approaches a specific age group and how other social and economic factors still condition the possibilities of older people, protecting some and disfavours others. Yet, while old age pensions have gradually become a central mark of any developed society that aims at promoting justice and integrity for their older population, it has also become a very contested and controversial area in which lower-class citizens have more to lose, and non-authorised migrants most of all.

ACKNOWLEDGEMENTS

This article is partly based on data from a project funded by the Ministry of Education and Science in Spain, reference number: i+d SEJ2005-08415 and co-financed with European Regional Development funds. Interviews with Peruvians were conducted in Spanish, and those with Moroccans in Arabic, French, Amazigh or Spanish, depending on the case. Hafsa Afaillal, Magdalena Díaz, Mercedes Jiménez, Anna Pardo, Bertha Romero, Ursula Santa Cruz and Carla Tamagno were members of the teams that under my supervision partly conducted, transcribed and made initial analyses of the interviews.

I am very grateful to Cornelia Schweppe and Vincent Horn, and to the participants of the workshop on

Law in the Everyday Lives of Transnational Families, held in Oñati in May 2012, as well as to the anonymous reviewers of this journal, for their helpful comments.

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