



From Brussels to the Barrio: The Challenges in Local Implementation of EU Policy

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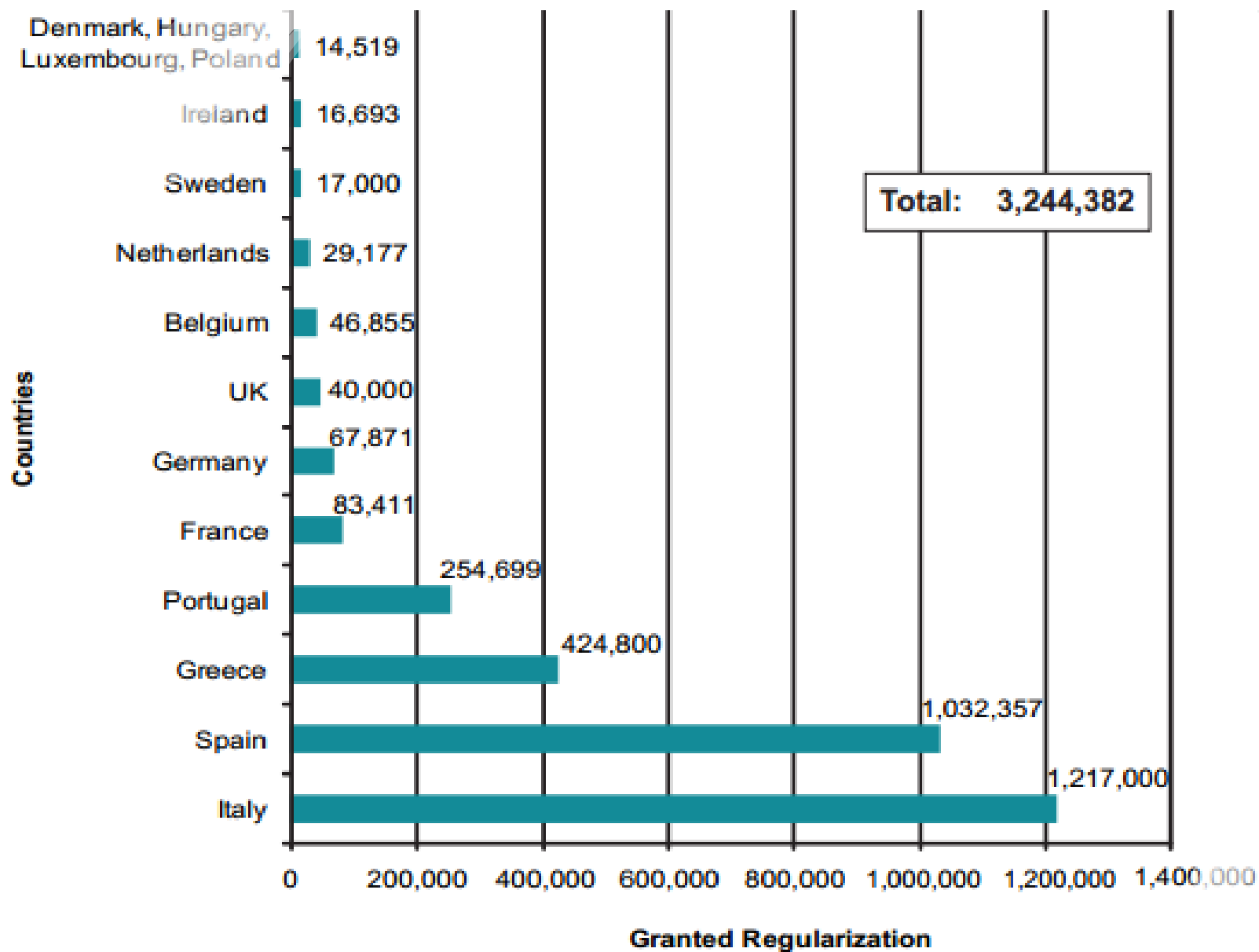
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Regularization: A post-migration policy tool

The act of providing unauthorized immigrants with a “legal” **administrative** status (& the right to have rights)

- Proponents: regulate the informal labor market, prevent worker exploitation, increase tax revenues
- Opponents: encourage irregular migration, magnet effect
- Empirical evidence: limited but generally positive
 - Reduce crime rate (Pinotti, 2017)
 - Shift in spending (Ferri et al., 2006)
 - Magnet effect dispelled (Larramona and Sanso-Navarro, 2015)

Figure 1. Number of People Regularized through Programs, EU-27, 1996-2007



EU Return Directive (2008/115/EC)

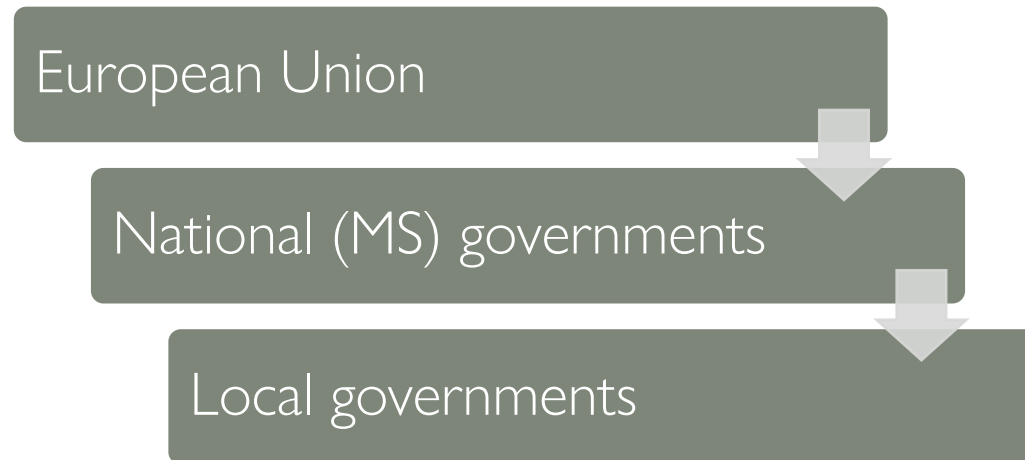
- Article 6(1) Imposes an obligation on Member States to issue a return decision against every third-country national staying irregularly in the EU
- Article 6(4) of the Return Directive allows Member States to grant an autonomous residence permit or other authorization
- Disputed within legal scholarship: does it simply *allow* MS to regularize irregular migrants or does it *oblige* them?

Tensions

- 2007 Council of Europe report: MS recommended to consider option of regularization for irregular migrants when return was not possible
- European Pact on Immigration & Asylum reminds:
 - One Member State's actions may affect the interests of others. Access to the territory of one Member State may be followed by access to the others. It is consequently imperative that each Member State take account of its partners' interests when designing and implementing its immigration, integration and asylum policies.
- MS have largely resisted attempts at harmonizing rules/procedures

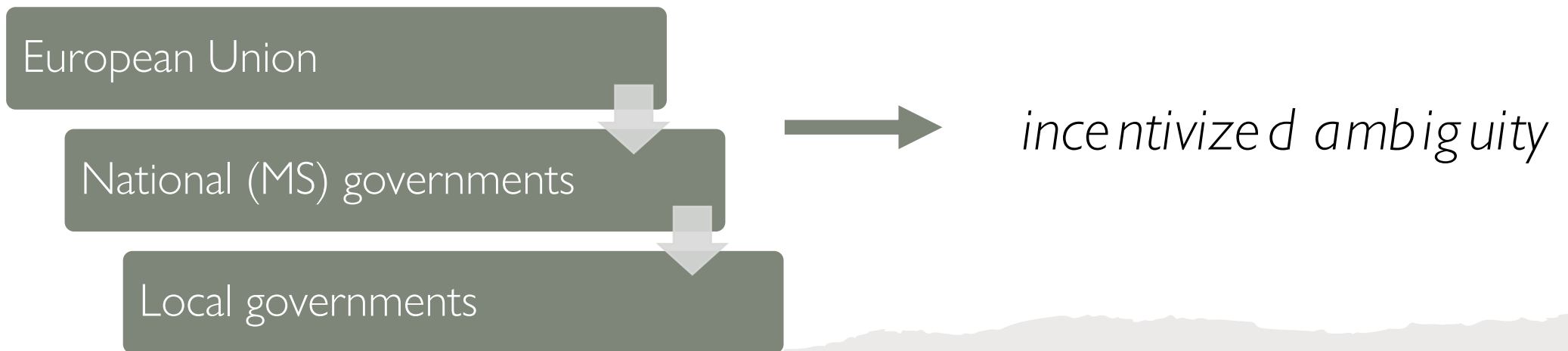
Setting Down (Social) Roots

- How does multi-level governance shape the implementation of regularization policy? How is this experienced by irregular immigrants?
- Historical institutionalist account about the **structural mismatches** between the Spanish state's *economic* and *political* interests as an EU MS



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Incentivized ambiguity

- Purposeful inaction by the (Spanish) state
- Parameters for inclusion/exclusion of irregular immigrants remain unspecified and often unchecked
 - Nationally inclusive policy = locally exclusionary implementation
 - Municipal administration results in geographical variation
- Allows the (Spanish) state to:
 - assuage northern MS concerns about being the EU's 'open back door'
 - regularize some irregular immigrants
 - keep others in perpetual irregularity ("the cheap model")



Regularization in Spain

- No immigration policy until 1985 to join EU
- Temporary Residence Authorization for Exceptional Circumstances (Social Settlement Program)
 - Social roots
 - Labor roots
- Requirements: *a posteriori* work contract of 1 year, certificate of social integration, 3 years of continuous residence (registry on municipal census, “*padrón*”)

The *padrón*



- Continuous population census
- Starts the 3-year clock for regularization
- Every person living in Spain is required to register **where they habitually live** (art. 15 LRBLR)
- Municipalities designate their own requirements for registry (Law 7/1985 art. 60)



EL FENÓMENO DE LA INMIGRACIÓN

Vic: una ciudad con un 25,7 por ciento de inmigrantes

• La decisión del Ayuntamiento ¿ CiU, PSC y ERC ¿ de negar el padrón a los ¿sin papeles¿ ha situado al municipio en el punto de mira



El tradicional mercado de Vic es un retrato de la multiculturalidad de la ciudad, con su mezcla de etnias y lenguas (Propias)



Torrejón de Ardoz niega el padrón a los extranjeros que llegan como turistas

MARIO TOLEDO / NOTICIA / 15.01.2010 - 00:27H

- Ponen trabas a los inmigrantes para inscribirse en el municipio.
- Su vivienda debe tener un mínimo de 20 m2 por persona.
- La ley estatal obliga a registrar incluso a los sin papeles.

State attorney's report

Based on the Law Regulating the Bases of the Local Regime (LRBRL):

*“The registration of foreigners in the register of habitual residence in the municipality proceeds independently of whether (they) have legal residence in the Spanish territory, consequently, **it is not appropriate to deny registration on the pretext that the foreign citizen does not legally reside in Spain.**”*

- Question remains: how do the registration of irregular immigrants fit with EU policy (the Return Directive)?

Conclusions

- Irregular migration is a structural feature of Spain's migration regime
 - Restrictive nature (EU influence)
 - Labor market demands
- Competing pressures create *incentivized ambiguity* that charges municipalities with the implementation of regularization policy
- EU Return Directive is not implemented
- Multi-level governance in the EU and the local implementation of EU policy
- Race Equality Directive?



Thank you!
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Ayer estuvimos junto a varias organizaciones de nuestra provincia en uno de los asentamientos de jornaleros informando sobre el derecho a empadronamiento. Ofreciendo ayuda con la solicitud, los documentos, y los requisitos necesarios a la hora del registro.



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Tenemos que plantear este tipo de acciones porque los Ayuntamientos de los pueblos freseros niegan el derecho a empadronarse a las personas que sostienen la industria del fruto rojo. Lo que conlleva a que se creen mafias que cobran hasta 1.000 euros por empadronamiento.



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Este es el paisaje que se vislumbra de camino al lugar, y que rodea al asentamiento. (Luego tiene la osadía la patronal de decir que: "¿por qué le preguntan a ellos por la gente de los asentamientos?")



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La vergüenza de una provincia que algunas tienen la osadía de nombrar como "integradora y ejemplo de acogida de personas migrantes". 20 años llevan así, sin que nadie mueva un dedo para buscar una solución. Porque interesa tener una mano de obra esclava fácil de explotar.

Incentivized ambiguity

Appeasing the EU

- EU has vested interest in Spain's external borders
- Concerns regarding welfare magnets (Sciortino 2004)
- Trading partners
- Comunale and Mongelli (2019)
- Sovereignty with constraints



Spanish PM Pedro Sanchez with EC President Ursula Von der Leyen

Incentivized ambiguity



Strawberry fields in Lepe

Regulating the 'Irregular Stock'

- The state profits from both irregularity & regularization
- Exploitation keeps wages low
- Regularizations "repair the structural mismatches of the Spanish migration regime" (Finotelli 2011:193)
- Access to revenues via social security contributions

“The Spanish authorities, once they are aware of the presence on their territory of a third-country national who is in an irregular situation, are no longer free to tolerate this situation without initiating return procedures or initiating procedures to grant him the right to remain in their territory.”

-Cecilia Malström

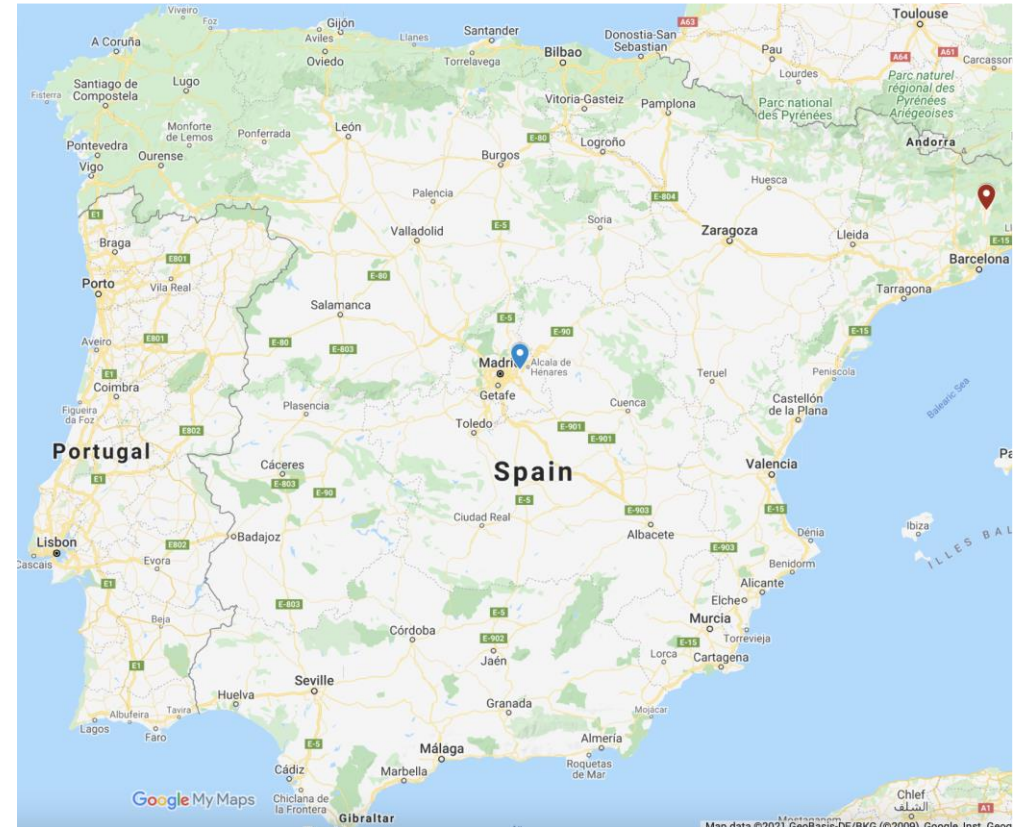
“What is clear is that all countries have the obligation, when a person from outside arrives, to tell him that he can stay or return him to his country in a dignified way and this has to be done as quickly as possible, but there are processes that take time. In the meantime, we must respect the European Charter of Fundamental Rights and what happens in this intermediate period is a matter for the Member States.”

- also Cecilia Malström



From *explicit* to *implicit* exclusion

- The indiscriminate exclusion of irregular immigrants runs contrary to state interests
- Lack of universal *padrón* standards allows for (incentivized) ambiguity
- Differential access to regularization based on locality



Municipal Housing ordinances

In-person application
with the owner of the
apartment & rental
agreement or deed

Certificate of
habitability

“Livable space”
requirements

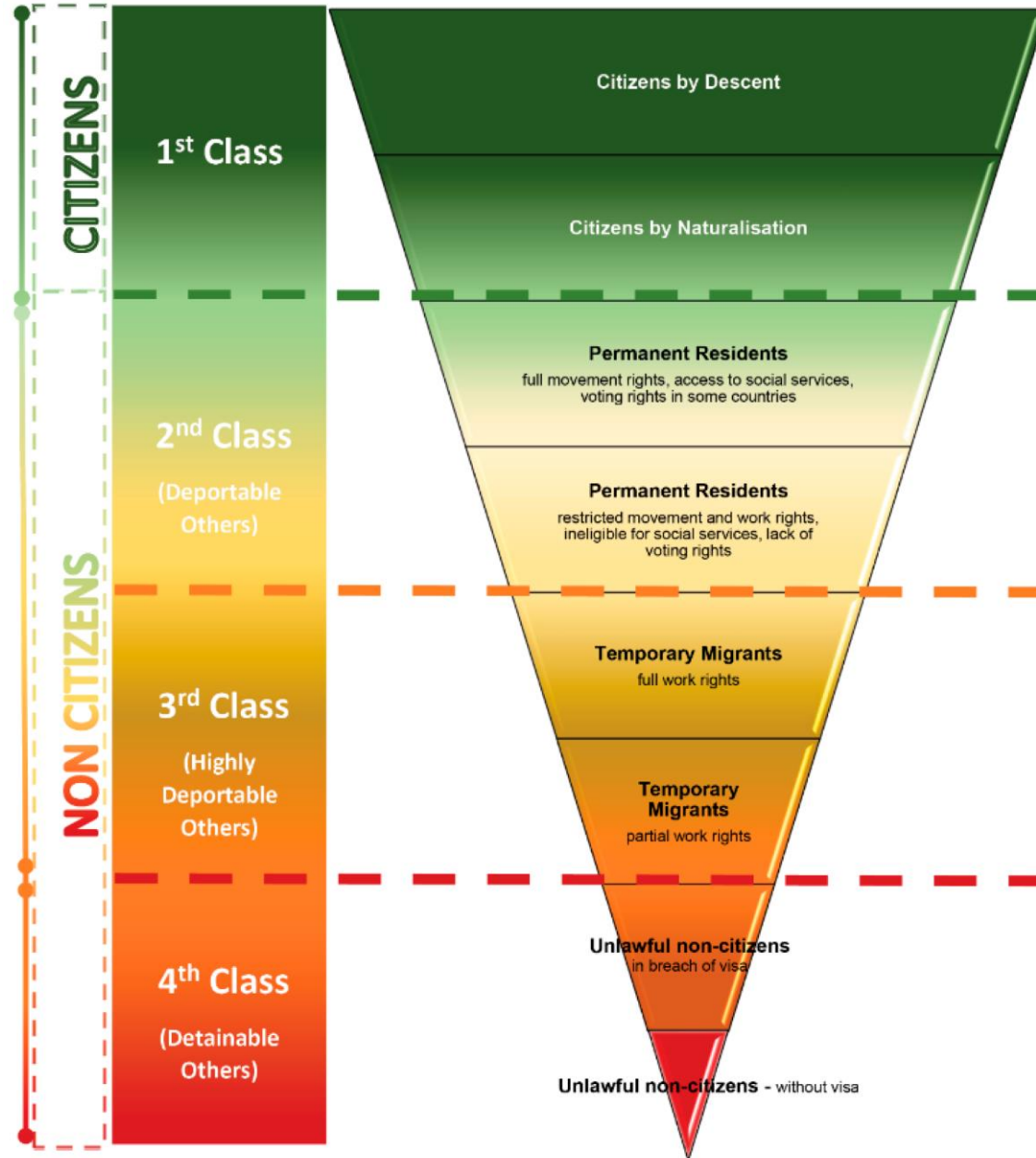
Fixed mailing address

Mandatory police visits

Municipal Housing ordinances

- Public safety
 - Combat overcrowding
 - Protects immigrants' rights to decent housing & improves their quality of life
- Do not take immigrants' lived experiences or racial discrimination in Spain's rental markets into account
- Disproportionately impact irregular immigrants' ability to register on the *padrón*

Sub-Citizenship Inverted Pyramid



Resistance to policy harmonization

- Baldwin-Edwards and Kraler (2009) book on regularizations in the EU
- In 2014 meeting organized by the European Commission to discuss a brainstorming paper of common standards on regularization, “the Commission’s arguments made in favour of a more harmonized approach at the EU level could not convince Member States experts” (Lutz 2018:49)
- Early 2009 documents from the European Commission suggest that European guidelines for the implementation of regularisations should be set, together with common standards on irremovable irregular immigrants, neither of the two points was mentioned in the final version of the Stockholm Programme, endorsed at the end of that same year” (Della Torre, 2018: 233)


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graph TD; A[Civic stratification] --> B[Economic mobility]; B --> C[Family reunification];
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Civic
stratification

Economic
mobility

Family
reunification