Responding to unauthorized residence: on a dilemma between 'firewalls' and 'regularizations'

Lukas Schmid[1]*

*Correspondence:
L.Schmid@jur.uni-frankfurt.de

[1] Leibniz Project "Transformations of Citizenship", Normative Orders, Goethe-Universität, Frankfurt Am Main, Germany

Abstract

Residence of unauthorized immigrants is a stable feature of the Global North's liberal democracies. This article asks how liberal-democratic policymakers should respond to this phenomenon, assuming both that states have incontrovertible rights and interests to assert control over immigration and that unauthorized residence is nevertheless an entrenched fact. It argues that a set of liberal-democratic commitments gives policymakers strong reason to implement both so-called 'firewall' and 'regularization' policies, thereby protecting unauthorized immigrants' basic needs and interests and officially incorporating many of them in society. It then explains that the background imperative of immigration control creates a dilemmatic tension between these policies, as regularization is envisaged alongside the removal of the ineligible, which is in turn hindered by the implementation of firewalls. This creates a dilemma between the pursuit of two policy goals that are both underwritten by the same value commitments. Though it cannot be entirely dissolved, I argue that the best way to mitigate this dilemma is to design regularization policy in a way that leaves only a small number of unauthorized immigrants subject to removal.

Keywords: Regularization, Firewalls, Immigration control, Moral dilemmas, Inclusion, Rule of law, Immigration policy

Introduction

Much of the public discourse that shapes contemporary migration policymaking is corroded by ideological obfuscation: it peddles false contentions, ignores the real facts of the matter, or elevates convenient facts over uncomfortable ones, all in order to legitimize predetermined political goals. Examples abound, be it persistent warnings about supposed pull-factors long debunked or complexified, prevalent misunderstandings of what constitutes legal and 'illegal' asylum-seeking, or ill-informed ideas about what would supposedly deter or even completely stop migration movements (for a lengthy discussion, see Acosta Arcarazo and Wiesbrock 2015). Another set of questions affected by such obfuscation concerns which empirical phenomena and normative principles should constrain migration policy as stable and incontrovertible fundaments. Two things are often presupposed at the same time. First, that sovereign

states have inherent rights to control immigration and strong interests in making use of such rights; and second, that the presence of unauthorized immigrants is a contingent phenomenon that the proper application of the sovereign closure prerogative can – and should – eradicate.

While the former idea is too value-laden to be easily dismissed as wrong, misleading, or implausible, decades of research have all but conclusively demonstrated the near-impossibility of the latter, at least in liberal-democratic circumstances. As long as states require would-be immigrants to obtain authorization for immigrating, the persistent presence of at least some unauthorized immigrants is a hard social fact that liberal democracies need to reckon with as such (e.g. Bommes & Sciortino, 2011). If the 'right to exclude' limits the horizon of migration policymaking, then the persistence of unauthorized immigration should as well. It is not hard to see that an equal acknowledgment of these twin constraints is likely to throw up various complex policy tensions. I think that it will also produce certain *ethical dilemmas* in migration policymaking. This paper strives to showcase one of these dilemmas, supply a recommendation for its mitigation, and note how taking its underlying conditions seriously counsels us to continuously re-evaluate the value commitments fundamental to our political communities.

If the interest to control immigration coexists with the permanent presence of unauthorized immigrants, how should policymakers deal with this latter phenomenon? There are broadly speaking three possible avenues: ignore it, intensify efforts to expel the unauthorized or convince them to leave – usually by rendering their environments increasingly hostile –, or authorize them *ex post* (what I will call 'regularization'). I will argue that the ethical commitments of liberal-democratic societies do not allow ignoring the phenomenon and conjecture that they fit uneasily with intense expulsion efforts and the construction of hostile environments. This assigns a prominent role to regularization measures. Given that there will always be some who remain unauthorized, policymakers must also decide if and how to regulate the relationship between the state and the unauthorized beyond questions of expulsion and regularization. I will contend that many of the ethical commitments that underpin the case for regularization also urge the operation of so-called 'firewall' policies, which enable the unauthorized to access basic rights and services without rendering themselves vulnerable to apprehension and expulsion at the hands of state agents.

An unlikely dilemma presents itself at this juncture. Though largely supported by the same value commitments, firewall and regularization policies conflict with each other – where firewalls are strong, regularization is endangered, and where regularization is to be pursued, firewalls are put in jeopardy. This dilemma arises essentially because firewalls ensconce unauthorized immigrants in a "social fog" – a layer of protection that hides some of their traces from immigration law enforcement – which stifles efforts to forcibly remove those deemed ineligible for regularization (Bommes & Sciortino, 2011). This conflicts with regularization efforts because liberal-democratic policymakers are pressed to pursue removals alongside regularizations to satisfy *both* the right and interest to assert control *and* the task of tackling unauthorized presence in a way that recognizes its entrenched reality. I will suggest that the best way to mitigate this dilemma is to operate continuously accessible regularization programs with minimal conditionality, which should reduce (but not quite eliminate) the need to 'clear out the fog.' This should allow firewalls to work alongside regularization programs more smoothly than would otherwise be the case.

The article is first and foremost a contribution to the development of a new body of work in the political theory of migration that aims to illuminate and help navigate hard ethical dilemmas in migration policymaking, policy tensions "which involve a persistent conflict of morally worthy goals or values that cannot be easily 'resolved' and that is grounded in facts and embedded in political institutions " (Bauböck et al., 2022, 429–30). Expanding on this initial definition, I present a policy dilemma that does not involve a persisting conflict of moral goals or values, but arises between two policy options that are both grounded in the same ethical commitments. I begin by laying out the contours of liberal democracy that largely determine the bounds of 'conscientious' policymaking in Global North societies. I then make the liberal-democratic case for firewalls and regularizations and explain how these policies come to conflict to create an ethical policy dilemma. Finally, I provide a suggestion for the mitigation of this dilemma and close by reflecting on the idea of approaching the political challenges that give rise to policy dilemmas through an honest wrestling with their underlying social realities.

Conscientious policymaking and liberal democracy

The chief addressee of a discussion of an ethical migration policy dilemma is a migration policymaker. Previous explorations of such dilemmas have rightfully interpreted'policymaking' in broad terms, understanding activists and civil society representatives as equally important figures in its shaping as legislators (Mann and Mourão Permoser, 2022). My discussion, however, remains tightly tailored to mainstream political agents who craft the authoritative rules of immigration control and management, simply because I am primarily interested in shedding some light on the *particular* tensions and constraints limiting the action space available to them.[1] It is, further, not *any* policymaker that is the proper addressee of the present discussion. As Bauböck et al., (2022, 434) correctly imply, clarifying intricate ethical dilemmas to policymakers interested solely in the allures of power or the pursuit of rigid and entirely premeditated political programs would be a waste of everyone's time. My addressee here is, thus, a *conscientious* policymaker: one who keeps an open mind about the complexities of political problems and their potential solutions, sees intellectual contemplation and reflexivity as a virtue, and is informed by a desire *to do the right thing*.

Of course, the actions of conscientious policymakers remain in majoritarian democracies constrained and co-determined by the many complex considerations and dynamics which bear on the policymaking process, such as public opinion and interest formation and the claims of key stakeholders and veto powers. 'Conscientious' policymaking does not require legislators to follow the mere goodness of their hearts or to think of themselves as philosopher kings. It merely requires them to navigate the many complexities of policymaking with an ethically and normatively reflexive disposition.[2] In

---

[1] Because immigration control powers are constitutive at the national level only and migration management competences are usually only partially delegated to regional or local levels, the dilemma I will discuss here is particularly relevant for national-level policymakers (and especially legislators). Policymakers at different levels of governance will face different kinds of dilemmas.

[2] This also renders coherent the possibility that conscientious policymakers may sometimes be responsible for outcomes that do not appear 'conscientious' at all (because they violate considerations of justice, for instance). A realistic assessment of the political process must allow that the conscientious disposition may sometimes be overpowered by greater structural forces.

liberal-democratic constitutional orders, to do so is simply to take seriously the constraints put on majoritarian political contestation by fundamental moral principles that are legally expressed and meant to be honored as part of a political ethos. This requires us to say a bit more about *liberal* democracy, and what the character of its constraint of pure majoritarianism may be. Doing so is also necessary to understand why the conscientious policymakers of liberal-democratic societies, in their consideration of unauthorized residence, should be moved towards inclusive policy approaches by reasons *internal* to their own political commitments, rather than merely by reasons externally prescribed by the theoretical observer.

The precise content of liberal-democratic propositions is historically contingent, but it is safe to say that their current configurations build on a core constituted by a principled individualism: a view of the world in which political institutions function to promote the liberty of free and equal persons, understood as the maximization of every person's freedom of action, safeguarded by a set of all but unassailable individual rights, the guarantee of private property, and the distinction between private and public life. This core is as close as one can get to a transversally compelling list of the features necessary to call a given order 'liberal' (compare Zürn & Gerschewski, 2021). Importantly, it is a core that the forces of history have in many places embellished with and constrained through a set of universal democratic norms and practices which have been "grafted on to liberalism," so that free and equal subjects are empowered (or forced) to determine the specific rules flowing from a vague liberal core commitment together and on equal footing (Hall, 2021, 233).

There are also crucial 'second-order' commitments liberal-democratic societies have often thought entailed by the liberal-democratic core. Three in particular will play important roles in the respective cases for firewall and regularization policies: the rule of law, open civil society, and effective markets. Through the rule of law, the state is meant to arbitrate conflicting rights-claims non-arbitrarily, transparently, and in a manner that treats all subjects equally according to publicly known procedures. Civil society is the realm where the private lives of individuals mingle openly according to voluntary and shared ends: where free and equal persons encounter each other to barter, agree on joint action, exchange viewpoints and associate more generally. The state is meant to nurture the existence conditions of civil society, enforcing the possibility of open encounter and exchange. Finally, effective (though not necessarily unconstrained) markets represent the part of civil society that deals with the free exchange of goods, services, and labor. They (are meant to) function to facilitate the goals of individuals to assert their property rights in self-interested ways, spurring fair competition between rival interests.

Common embrace of the core and second-order commitments of liberal democracy does not entail an internal harmony of liberal-democratic politics. Indeed, different interpretations of these commitments clash to various extents, leading to the familiar political conflicts structuring the social antagonisms of Global North societies (and often beyond). Without discussing these in any detail, it is clear that different varieties of liberal-democratic thought clash with each other: perhaps most prominently, *neoliberal*

interpretations challenge *social-democratic* ones; and *cosmopolitan* interpretations challenge *nationalist-conservative* ones (compare Zürn & Gerschewski, 2021). Most policymakers will be placed at some position in this matrix of liberal-democratic conflict. *Conscientious* policymakers will value and practice reflexivity about this positioning, not least in the face of the concrete challenges posed by unfamiliar and multifaceted social problems.

Inclusive responses to unauthorized residence

Unauthorized residence poses various issues conscientious policymakers must reckon with. After all, unauthorized residents are threatened by precarity and exist in legal grey-zones or even outright illegality; their presence is evidence of the continued violation of state directives; and citizens may worry that the phenomenon signals a continuous erosion of the rule of law. Given such worries, one could begin by asking why responses should not be primarily *exclusive* – reparative, rather than accommodating, of breaches of the legal and social status quo. Indeed, public discourse and academic scholarship have often adopted two related arguments for overwhelmingly exclusive, law enforcement-oriented responses to unauthorized residence: the *unfairness argument* and the *against-lawbreaking argument*. The unfairness argument claims that inclusive or 'forgiving' responses are unfair both to citizens, who see state resources and capacities diverted away from their needs and interests for the benefit of people with no right to them, and to 'regular' (im-)migrants, who abide by laws and 'wait their turn' just to see the claims of rule-breakers find expedited attention (Wong, 2021). Relatedly, the against-lawbreaking argument claims that inclusive responses reward rule-breakers, which makes a mockery of the rule of law and destabilizes established and coordinated expectations of which behavior is rewarded and which is disciplined (Kobach, 2008).

Needless to say, these arguments are controversial. Scholars and citizens concerned with migrant rights have countered them with a diverse portfolio of objections focusing on the legitimate justice-claims of even unauthorized immigrants. Recent contributions have, for instance, argued that citizens owe duties of reciprocity and gratitude to economically and socially contributing unauthorized residents, which are best fulfilled through inclusive responses to their lack of legal status (Hosein, 2016, 166–68; Gerver, 2022). We are also familiar with more sweeping claims about the duties of rich states to admit a great many disadvantaged immigrants in order to reduce global poverty and inequality (Carens, 2013, 233–36). Whether to respond to unauthorized residence with mostly exclusive or mostly inclusive means is thus a tense question, with each camp mobilizing deeply evocative principles in support of their position. Song and Bloemraad (2022) have recently even argued that there is a hard ethical dilemma between justice- and rule-of-law arguments for and against the regularization of unauthorized immigrants, although they suggest it is mitigated by the fact that one can also understand the rule of law as supportive of inclusive approaches.

I am thus neither claiming that the merits of inclusive approaches are indisputable nor that reasonable people could have no compelling counterarguments at their disposal. The following pages merely attempt to offer a canvass of reasons – some rarely, others often mentioned – to think that various liberal-democratic values and principles can be

read to converge on support for two main tools in the arsenal of inclusivity, firewall and regularization policies. I suggest that conscientious policymakers should consider those reasons alongside opposing arguments. The hope is that, as my arguments unfold, it will become more and more compelling to think that they outweigh their competitors.

The liberal-democratic case for firewalls

With that in mind, let us turn to the reasons why policymakers should endorse controversial 'firewall' policies against immigration law enforcement. Broadly speaking, we can understand firewall policies and practices as i) those which prevent a particular institution or organization from cooperating with immigration enforcement authorities insofar as the identification or pursuit of unauthorized immigrants is at issue; and ii) those which prevent immigration enforcement authorities from checking people's immigration status in and around particular areas or spaces (usually those close to the types of institutions or organizations referred to in i)). Firewalls aim to preclude or counter 'hostile environments' for unauthorized immigrants: they function to mitigate the burdens state-internal immigration enforcement places on them and their communities. By establishing "administrative linkage" between different social and political practices and processes, states can penetrate the 'foggy social structures' that unauthorized immigrants may construct (Carens, 2013, 134). Common strategies include deputizing landlords and employers to check tenants' and employees' immigration status; obligating the providers of public and social services to report any unauthorized immigrant who avails themselves of their benefits; and tasking non-specialized police agents with ascertaining immigration status in encounters such as traffic stops. Such hostile environments place unauthorized immigrants in a 'rights trap:' any attempt to claim some of their basic rights puts them at significant danger of detection and forced removal (see Gibney, 2009).

Of course, motivations for operating firewall practices vary, but there is no doubt that they are often at least partially spurred by humanitarian concerns and insistence on the just treatment of the unauthorized. Nevertheless, I want to argue here that liberal-democratic policymakers should endorse wide-ranging firewall policies *even if* they were inclined not to assign much weight to the claims of unauthorized migrants themselves. This is because strong reasons for doing so emanate directly from the core and second-order commitments of liberal-democratic politics. I will elaborate on four of those reasons more extensively.

First, conscientious policymakers want to ensure the conditions necessary for institutions and social practices that play fundamental roles in the reproduction of liberal-democratic society to function without significant obstacles. Firewall policies further this goal considerably. For example, evidence suggests that the unauthorized are less likely to report crimes to police when danger of arrest and/or deportation is associated with doing so (e.g. Collingwood and Gonzalez O'Brien 2019, chap. 5; Timmerman et al., 2020). It goes without saying that the liberal-democratic society has a crucial interest in preventing unlawful harm to citizens, and should thus encourage everyone to partake in crime reporting. The liberal-democratic society (really, any society) has an equally strong interest in preventing contagious diseases from spreading. To meet this objective, it is crucial that even the unauthorized make use of the basic health care facilities tasked

with fighting and containing such diseases. People will be less disposed to do so if such facilities put them at risk of apprehension by sharing their information with immigration enforcement authorities, or if they have reason to suspect that these authorities will check their status in or around the spaces in which such facilities are located. Fundamental interests in fighting crime and preventing public health emergencies thus supply strong reasons for erecting national-level firewalls in encounters with at least some police and public health officials (see Crépeau & Hastie, 2015). But there is more to this point. Legislating to support and protect the reproduction of liberal-democratic society also entails enabling public servants and civil society actors to follow their professional codes of ethics. They often face significant obstacles to doing so where firewalls are absent. Doctors, schoolteachers, social workers, and street-level bureaucrats all report having to navigate serious ethical dilemmas and operational complications when the law does not allow them to relate to their unauthorized clients as their professional ethics and purposes would mandate them to. Firewalls in areas such as public healthcare and education and the privatized provision of social services are necessary to enable them to follow their legitimate professional objectives in an uninhibited manner (Carens, 2013, chap. 7; Crépeau & Hastie, 2015; Hermansson et al., 2022).

Second, conscientious policymakers want to strengthen and follow fundamental principles of the rule of law. National-level firewalls help achieve this in various ways. To start with, they may better enable governments to follow obligations of European and International Law, whose various human rights instruments urge them to provide access to basic rights (for instance to healthcare and education) to all, even the unauthorized. Firewalls help render such rights practical and effective, thus promoting two core principles of the rule of law (compare Crépeau & Hastie, 2015; Hermansson et al., 2022). Moreover, by prohibiting the deputization of private citizens and public officials with no expertise in or formal mandate for carrying out immigration law enforcement, firewall policies would promote established rule of law principles such as competence, publicity, fairness, and non-arbitrariness (e.g. Carens, 2013, 144–45). Finally, firewalling unauthorized immigrants' receipt of basic entitlements from public institutions would further promote the stability of non-arbitrary treatment by taking the provision of such entitlements out of the hands of private entities, such as charities, which have often sprung up to fill the gap left when public services are unprotected by firewalls. While such private entities do important work, for instance treating unauthorized immigrants' health issues, leaving them in charge of the provision of basic rights entitlements inevitably creates fundamental dependence on the discretionary wills of unaccountable private actors (compare Wilmes, 2011). Taking the rule of law seriously means instating firewalls in various areas of public service provision, especially those necessary for the stable satisfaction of basic rights.

Third, conscientious policymakers want to oppose the formation of de-facto subordinated castes. One does not need to agree with the justice-claims of unauthorized immigrants to understand that a liberal-democratic society cannot tolerate caste stratification; after all, the moral equality of persons is at the very core of liberal-democratic commitment. Where a significantly large group of persons is systematically hindered from freely accessing basic rights and services, a permanent precariat with gravely unequal standing is bound to form. Such a precariat is not only permanently marginalized and damned to

the fringes of society, but also invites vicious stigmatization and inferiorization. Moreover, stigma and inferiority is likely to spill over to the wider communities of unauthorized persons, thereby potentially afflicting citizens and regularized immigrants as well. The result may be "social undocumentedness," whereby the unauthorizedness of persons is assumed by recourse to generalized stereotypes and stigmas (Reed-Sandoval, 2020). Preventing the perversion of liberal-democratic society through such developments requires universal access to at least some public goods and services, and therefore the erecting of at least some firewalls.[3] The U.S. Supreme Court agrees, explicitly basing its verdict that elementary public education must be extended to unauthorized immigrant children on anti-caste arguments (United States Supreme Court 1982).

Fourth, liberal-democratic states should not without strong justification intervene in markets to systematically advantage capital over labor.[4] Unfortunately, this is precisely what strong internal immigration enforcement unrestrained by labor-specific firewalls does. Unscrupulous employers who do not shy away from reporting their own unauthorized workers to the authorities can easily exploit and dominate them if they face little or no repercussions for employing them in the first place. Even where employers do face significant costs for employing the unauthorized, such workers are still exceptionally vulnerable to wage theft and substandard working conditions if there are no firewalls for reporting labor violations. After all, it's only reasonable to endure poor working conditions if arrest and deportation is the likely alternative. The point, however, goes beyond the labor rights of the unauthorized. By disempowering unauthorized workers vis-à-vis their employers, immigration enforcement disempowers *all* similarly situated workers, including citizens and regular immigrants. The more exploitable a subset of workers are, the less bargaining power the not-so-easily exploitable possess. Accordingly, the smaller the pool of readily available and easily exploitable unauthorized migrant workers, the better the chance for good wages and working conditions across the board. Firewalls for the reporting of labor violations are thus key for ensuring that the state's immigration law enforcers do not become agents of capital (compare Crépeau & Hastie, 2015). Private property is a core commitment of liberal-democracy, and effective markets are meant to provide fair opportunity to reap its fruits. Labor power is property, too, and liberal democrats should not without strong reason intervene to diminish its value.[5]

The liberal-democratic case for regularization

But firewall policies alone cannot complete an inclusive approach to the issue of unauthorized residence. This section argues in favor of 'regularization' policies to complement firewalls. Regularization (or 'legalization' or 'amnesty') policies have long precedents in liberal-democratic states. Between 1996 and 2011, over 5 million

---

[3] I want to be clear that erecting firewalls (or even regularization programmes) does not *suffice* to satisfy the state's task to treat (im-)migrants as moral equals. States may treat (im-)migrants as inferior even where such policies are in place, for instance by demonizing them or subjecting them to violent pushbacks. To say that firewall policies *support* moral equality is not to say they *realize* it.

[4] The very phenomenon of authoritative immigration restrictions already constitutes an intervention in markets. But whether it advantages capital over labour depends on the specifics of any given immigration policy regime.

[5] One might want to object that public interest in the enforcement of immigration policies is a strong enough reason to justify this. But there are many ways of enforcing immigration rules that do not encroach on worker's rights. To justify intervening, the necessity of doing so must be demonstrated.

people have been regularized in the European Union (Brick, 2011). Especially Italy, Spain, and Portugal have enacted various regularization programs since the 1980s, including in and as a response to the recent COVID-19 pandemic (Maas, 2010; Pla, 2020). The United States, too, has repeatedly legislated for regularization, including through its landmark 1986 Immigration and Reform Act (e.g. Song & Bloemraad, 2022). Regularization programs come in great variety. For instance, they can solicit applications either from unauthorized immigrants themselves or from their employers; they can be specific to certain economic sectors or not; they can be intended as 'one-off' events or designed to offer a continuous option out of irregularity (see Levinson, 2005 for an early overview). Different varieties of regularization are supported by different normative arguments – a point I will return to – but the very principle of regularization is itself subject to great political contestation, with pro- and opponents often arguing along the lines discussed above. As in the case of firewalls, I will aim to challenge and develop these contests by arguing that the core and second-order liberal-democratic commitments of conscientious policymakers counsel them principally to embrace regularization programs.

First, as a matter of their second-order liberal-democratic commitments, conscientious policymakers want to promote a civil society in which those with established social relations can come together openly. Regularizing the unauthorized helps achieve this by enabling a significant number of de-facto social participants to 'come out of the shadows.' It clears out the social fog the unauthorized construct under duress to obscure their social relations and practices from hostile authorities. The effects of lifting this social fog in a way that is amiable to the concerns and interests of the unauthorized are concrete and in line with liberal-democratic principles. Participation in the regular economy will be promoted and black markets and clandestine labor relations effectively tackled; everyday encounters between individuals of different cultural backgrounds will be enabled and self-segregation less incentivized (compare Menjívar & Lakhani, 2016; Di Porto et al., 2018; Bracco & Onnis, 2022). The liberal-democratic society needs its social relations to play out freely and openly. Regularizing the unauthorized goes some way towards fostering this ideal.

Second, rule of law principles give conscientious policymakers strong reason to support not just firewalls, but also regularization policies. Just like firewalls, regularizations help to make efficient and practical immigrants' entitlements to basic rights, therefore helping governments satisfy their international human rights obligations. Regularizations may also help to minimize arbitrary and unjustifiably discriminatory policing practices. Reducing the number of unauthorized immigrants will render immigration checks less ubiquitous, reducing the strain such policing puts on the (usually minority) populations disproportionately, and often wrongly, targeted in the process (compare Mendoza, 2017, chap. 5). Finally, regularization programs amount to the recognition and consistent application of the statute of limitations, a key rule of law principle. The main idea, widely operative in the legal systems of liberal-democratic states, is that "it is wrong to make people live indefinitely with a looming threat of serious legal consequences for a long-past infraction, except for the most serious offenses" (Song & Bloemraad, 2022, 498). Regularization programs are necessary to relieve at least those settled for a long (enough) period from this burden (see also

Ellermann, 2014). Liberal-democratic reasons for regularization policies thus also emanate from a commitment to core principles of the rule of law.

Third, the anti-caste commitments of conscientious policymakers speak heavily in favor of not just firewalls, but also regularizations, as even the conservatively inclined British House of Lords has explicitly recognized (Levinson, 2005, 31). When large swaths of people that are de-facto members of the societies in which they live are systematically precluded from both taking advantage of and contributing to common public goods, perpetually faced with imminent danger of expulsion, the liberal-democratic ethos of a society of equals is distorted and degraded. Many thinkers who endorse liberal-democratic propositions while favoring different interpretations of their demands – those with more cosmopolitan and those with more nationalist inclinations, and those in between – have argued that liberal-democratic core commitments to freedom, moral equality, and collective self-determination require long-term residents to be offered the chance to become naturalized citizens, be it because of the stakes they have acquired in the governance of society, the political authority they are voicelessly subjected to, or the importance political enfranchisement plays for the recognition of de-facto social membership (compare Walzer, 1983; D. Miller, 2007; Bauböck, 2009; Carens, 2013; Hosein, 2014). The regularity of status plays no qualifying role in the normative force of these arguments, but the path to citizenship cannot be trodden without it.

Finally, while firewalls are necessary as emergency stopgaps to preclude state authorities from systematically advantaging capital over labor, regularization programs stabilize and render permanent their inherently limited reach. Even where firewall policies facilitate the reporting of exploitative working conditions, or even the participation in union activity, the presence of large numbers of unauthorized migrant workers skews the labor market in favor of employers. For instance, unauthorized workers may systematically tend to accept lower (though legal) wages for longer (though legal) hours than their authorized counterparts in virtue of their legally precarious situations (e.g. Borjas & Cassidy, 2019). This means that by introducing and rendering salient the distinction between authorized and unauthorized, the state interferes in the labor market to worsen the bargaining position of workers (as a class). Firewalls can only do so much to mitigate this problem. The only long-term solution is to significantly reduce the number of workers with unauthorized status.

The dilemma explained

Given that many of the same value commitments support both kinds of policies, it is intuitive to think of firewalls and regularizations as complementary, and this is certainly how I have presented them so far. This impression likely comes about because we think of them as policies that pursue the same or similar ends and naturally do so in a *sequentially ordered* way. To wit, firewall policies are practical short-term measures to mitigate certain problems until political capital and organizational prowess can be mustered to tackle them in a more comprehensive and systematic way – via regularization. Unfortunately, the sequential way of understanding the relationship between firewalls and regularizations is misleading. While it is surely possible to conceive of regularization programs that blanketly regularize *all* previously unauthorized immigrants, various considerations – most obviously the state's right and interest to control immigration that I

assumed to be an incontrovertible constraint on policy – ensure that governments never operate them like this. This means that there are always at least some criteria attached to regularization which will render at least some of the unauthorized ineligible. If always only a subset of the unauthorized population is eligible for regularization, however, there are always some people for whom the coverage provided by firewalls remains just as salient throughout and after the implementation of any given regularization program as before its inception. While fulfilling some of the same functions, firewall and regularization policies are not simply two steps up the same ladder.

The dilemmatic result of this reality comes into clearer view once we augment our new understanding of the relationship between firewalls and regularizations with a bigger-picture view on the point and purpose of regularization programs. The liberal-democratic arguments I have introduced in their support all boil down to the core idea that the heavy presence of unauthorized persons creates strong tensions between a liberal-democratic notion of desirable social relations and actual social reality. The point is not primarily the welfare of the unauthorized but that of the liberal-democratic social order. One may thus think that the presence of unauthorized persons – who, after all, subverted the state's authority – should not be tackled through regularizations, but through their removal from the country. After all, reasons for regularizations, such as the importance of avoiding the creation of subordinated castes, may often also be interpreted as reasons for removals. Nevertheless, I think liberal-democratic policymakers often have both pragmatic and principled reasons to prefer regularization over removal. The pragmatic reason is simply that unauthorized residence in liberal democratic societies is often so entrenched that the state cannot entirely expel its way out of it. The more important principled reason is that the measures required to conduct large-scale expulsion operations are likely to violate several core or second-order liberal-democratic commitments, including to individual liberty, moral equality, the open civil society, and the rule of law (compare Lenard, 2015). Indeed, heavy enforcement campaigns will likely depend on measures firewalls are meant to protect against.

But notice that the force of the pragmatic and principled reasons depends on the unauthorized population being large and entrenched. Once regularization programs have managed to significantly diminish the size of the unauthorized population, the case against removing the remaining persons becomes much weaker, and the state's right and interest in immigration control becomes more salient again. Given that we are assuming this right and interest to be an incontrovertible foundation of migration policy, there is a normative link between regularization and removal: regularization is needed to address unauthorized residence as an entrenched social fact, and removal is needed to hone the state's immigration control interest at the same time. We should thus not be surprised when large-scale regularization campaigns coincide with the heightened pursuit of the expulsion of those who are not eligible under the pertinent conditions. Importantly, this link is not just a theoretical proposition: it is evident in the heightened enforcement campaigns many countries have historically tacked onto regularization programs (e.g. Baker, 1997; M. Miller, 2002; Perlmutter, 2014; Martin, 2022). The conjunction of these two responses reflects a liberal-democratic effort at satisfying the double constraint of taking unauthorized residence as an entrenched social fact and nevertheless insisting on the state's fundamental immigration control interest (see Baker, 1997, 7).

If the basic assumptions behind this discussion give rise to a normative and empirical link between regularizations and removals, regularizations are in turn brought into fundamental tension with firewall policies. Firewall policies enable the unauthorized to participate in certain aspects of society without fear of expulsion. Thus, the more widely established firewalls are, and the better they function, the lower the chance for the state to succeed in the removal ambitions linked to regularization policies, because it will be more difficult for the state to identify and apprehend its targets. Firewalls thus make it harder to hone the double constraint that requires both regularization and expulsion. Like other kinds of social policy aimed at expanding or safeguarding the *rights* of immigrants, firewalls are in tension with the heightened enforcement that accompanies the inclusion of greater *numbers* of them (see Chauvin & Garcés-Mascareñas, 2012; Ruhs, 2013). Policymakers may then be tempted to minimize, abolish, or refuse to instate firewalls. On the other hand, it may be that policymakers convinced that thorough firewall practice is required to appropriately address unauthorized residence will in turn become deterred from pursuing regularization programs. Given that each policy is valuable in its own right yet seems to undermine the other, there is a dilemmatic tension which is liable to manifest in a concrete ethical dilemma for policymakers: should they pursue effective firewalls or effective regularizations? What we have ended up with is not a dilemma between equally worthy but irreconcilable *values*, but one in which the same values are expressed in conflicting policy *goals*.

Mitigating the dilemma: a policy recommendation

Assuming contemporary states have a fundamental sovereign right and interest to assert control over immigration that, at least currently, cannot be displaced, I think the dilemmatic tension cannot be entirely dissolved. Nevertheless, appropriate policy design can go some way towards mitigating it, letting regularizations and firewalls coexist relatively peacefully. The key variable is the specification of the regularization program. In essence, the tension gets more acute the more conditional and piecemeal-like the design of the regularization program turns out to be. Consider a one-off, 'exceptional' regularization measure meant to apply only to those who prove, say, long-term settlement, stable employment, knowledge about civic issues, and language competency.

The first problem with this measure is that one-off programs do not respond to the fact that unauthorized immigration constitutes an entrenched social phenomenon that will not simply 'go away.' To the contrary, such programs are likely to reflect legislative intent to renege on a fundamentally exclusionary policy preference 'just this once.' The exceptional character of the measure conveys that the government has no intention of recognizing the phenomenon as one that requires stable, long-term attention. Instead, the idea is often that regularization be applied to those whose presence is considered most beneficial or who are deemed most deserving, and that those ineligible (usually *the bulk* of unauthorized residents) will be dealt with through enforcement (e.g. Ambrosini, 2022; Chauvin et al., 2013). This approach exacerbates the tension between regularization and firewall goals by failing to tackle unauthorized presence in the long term and simultaneously insisting on a strong enforcement strategy. The second problem with the measure is its conditionality, which heightens the tension with firewall policies for two reasons. First, the more conditions one attaches to a regularization program, the

more unauthorized residents will fail to qualify for it. Consequently, the need for internal enforcement remains high, and firewalls are readily perceived as hindrances. Second, when immigration authorities must assess the validity of a large number of diverse documents submitted by regularization applicants – proof of residence and employment, language certificates, and so on – they may require access to databases that firewalls should have sealed off from their view, such as those of housing or education providers.

Such dilemmatic tensions are likely to become less acute the less legislators insist on exceptionality and conditionality. Where regularizations are conceived as continuous rather than one-off policies, the need to escalate internal enforcement is likely to diminish. Indeed, it is likely to diminish *because* the internal logic of the regularization policy will reflect the long-term pursuit of the liberal-democratic reasons expounded above, rather than merely a begrudging realization that enforcement alone cannot achieve whatever aim one harkens to pursue. This is not to say that such a long-term policy entirely voids the government's need for or interest in internal enforcement, which remains necessary for as long as the scope of regularization policies excludes any unauthorized migrants at all. But the underlying goals of such a policy seem likely to allow this enforcement to proceed in an even and restrained fashion, leaving more room for efficacious firewalls than a supposedly one-off approach fashioned as an exceptional concession to considerations of feasibility.

Non-conditionality further diminishes the severity of the dilemma. Because it leads to a greater number of regularizations, and therefore to a less significant remaining phenomenon of unauthorized presence, the phenomenon's political salience and its threat to liberal-democratic aims are likely to be reduced in the long term, which is in turn bound to bode well for the relatively undisturbed operation of firewalls. What is more, non-conditionality ensures that immigration authorities do not have to assess and evaluate information that firewalls should keep hidden from them, further boosting their chances of retaining their functionality. So, insofar as our goal is to reconcile regularizations with firewall policies as far as we possibly can, we should aim for regularization policies to be both continuous and non-conditional.

Of course, a fully continuous and non-conditional regularization policy amounts to a permanent grant of universal amnesty, thereby virtually eradicating the phenomenon of unauthorized presence. Such a recommendation is unlikely to represent a politically feasible option, but more importantly also fails to treat the state's interest in sovereign immigration control as an incontrovertible constraint, thereby denying the very premises that give rise to this article's discussion (and also undermining the rationale for firewall policies). So, something must give, and I think it should be non-conditionality rather than full continuity. While regularization should be a continuous rather than exceptional or occasional option, it seems to me unproblematic to attach a specific kind of minimal condition to it.

Core and second-order liberal-democratic commitments, when coupled with an acknowledgment that irregularity is an entrenched social fact, are in strong tension with the operation of regularization as a one-off rather than permanently available option, while they can accommodate and perhaps even promote minimum conditionality. Remember that a liberal democrat must be fundamentally uncomfortable with a situation in which (most) longer-settled persons, *qua* their status as political subjects,

stakeholders, or social members, are not principally guaranteed reliable access to secure residence and the prospect of citizenship, given the injury to moral equality and autonomy entailed by the absence of such prospects. There should thus be a continuous opportunity to regularize for all those whose moral equality or autonomy is taken to be endangered by continued irregularity. The same line of thought, however, permits and implicitly even promotes some minimum conditionality. The civil society-, rule of law-, and anti-caste arguments expounded above are all at their strongest where they give liberal-democratic reasons for ending the unauthorized presence of *settled* social members specifically. This implies that a certain *duration of residence* is an appropriate condition to attach to a continuously accessible regularization policy. In my view, these arguments also suggest that the relevant threshold should be set at a rather low level, but such specifics are better hatched out in wider democratic deliberation.

My recommendation for mitigating the dilemma is thus to legislate for a continuous regularization opportunity with a minimal duration-of-residence condition. As it happens, this is also frequently recommended in the part of the normative literature that emphasizes migrants' legitimate claims of justice (Carens, 2013, chap. 7; Cohen, 2020; Song & Bloemraad, 2022). The fact that there seems to be an overlapping consensus among theorists on the desirable shape of regularization policy may be taken as an additional piece of support for my recommendation. Continuous regularization with only a duration-of-residence condition also has some policy precedent. In the United States, for instance, regularization has for a long time proceeded in this way through the policy of *registry*, which, created in 1929 and updated several times since, has allowed anyone continuously present in the U.S. since a date set in the statute to regularize their status.[6] Because the registry date has not been updated for a long time, the policy is now practically defunct, but could principally be revived through a simple legislative act (e.g. Cohen, 2020, chap. 8).

One may worry that this recommendation comes at the cost of denying the incontrovertible constraint of the state's right and interest in sovereign immigration control. The picture painted here is one that takes liberal-democratic commitments to demand a decidedly and, by the standards of existing migration policy in the Global North, *radically* inclusive approach to the governance of unauthorized migration. Embracing such demands seems to severely weaken the state's ability to assert its sovereignty over membership and territory. It seems, then, that solving one dilemma just thrusts us into the next. But I think this is an overstatement. One may of course hold that such concerns should really be taken to demonstrate the poverty and unsustainability of the dominant understanding of sovereignty (as I have argued in Schmid, 2022). But even if we leave this idea of sovereignty unaltered and accept its implications as an incontrovertible constraint on policy, liberal-democratic inclusiveness of settled migrants need not fatally undermine it. Crucially, my argument requires only a significant constraining of internal

---

[6] *Registry* does, however, contain the condition that applicants must prove 'good moral character,' which often necessitates showing "evidence of positive interactions with local institutions," thereby requiring the kind of paper trail that may sit uneasily with firewall protections (Horton 2020, 11). One possibility of retaining a minimal 'decency' condition without provoking significant tension with firewalls may be to require the absence of a serious criminal record (i.e., one including violent crimes) on top of the residence condition.

enforcement, not its abolition; and it does not preclude states from engaging in strong and comprehensive *external* control of their borders.

In lieu of conclusion: between abstractions and materialities

There is value in making a case for inclusive responses to unauthorized residence that situates itself within the bounds of liberal-democratic governance objectives. After all, mainstream policymakers have reason to see themselves bound to such objectives. But there is also something unsatisfying about ending the discussion there. Bauböck's et al., (2022) agenda-setting introduction to the treatment of ethical migration policy dilemmas implies that the concrete social formations and material realities that account for the emergence of a policy dilemma – such as for instance the pressures and constellations of sea rescue (Mann and Mourão Permoser, 2022) – should play central roles in the scholarly and practical reckoning with its implications. I wholeheartedly agree but have so far not allowed these concrete social realities to guide normative or policy responses. Indeed, my discovery of a dilemmatic policy tension emerged only from an approach to the phenomenon of unauthorized residence that followed the supposed demands of a liberal-democratic metanarrative.

What would happen if we foregrounded the social realities of unauthorized residence in our attempts to grasp which challenges it poses to those affected as well as the sociopolitical order at large, and which of these challenges ought to be most urgently addressed? We might unearth a serious discrepancy between the constraints of liberal-democratic politics and the claims of manifestly vulnerable groups, most obviously those of unauthorized (im-)migrants themselves. For example, though I have emphasized that one strong reason to embrace regularization is that the liberal society is loath to accept clandestineness, there is also evidence that the thick social fog that characterizes the lives of some unauthorized immigrants *empowers them as agents* even whilst cementing their marginalization from majority society. Consider a widespread experience among the Kichwa-Otavalo people, an indigenous community centered in Otavalo, Ecuador, and part of a historically marginalized and subordinated network of indigenous groups in Ecuador and Colombia. The Kichwa have established far-flung migration networks in distant corners of the world by developing elaborate strategies to evade documentation requirements, engaging in what they perceive as adventure and entrepreneurial activities (Ordóñez, 2020). The majority of migrant Kichwa seem to have no interest in establishing regular relations with the states in which they operate, sometimes for considerable durations. Instead, they stake their vision of the good life on unregulated activity enabled by vast networks of foggy social structures. The experience of unauthorized immigration can also open up a radical political consciousness that sits uneasy with liberal-democratic politics. Such experiences have sometimes given rise to a politics of migrant activism that, while agitating for regularization and decent treatment, *also* articulates a more comprehensive critique of established systems of bordering and citizenship, as for instance brought forward by the 'NoBorders' protests of unauthorized migrants at Calais (Rigby & Schlembach, 2013; see also Celikates, 2022).

The conscientious liberal-democratic policymaker may find themselves bewildered by the question what, if anything, such concrete experiences of the unauthorized condition should imply for their policymaking, both because they do not always perfectly translate

into discrete and easily categorizable claims and because the policymaker's normative tools do not obviously allow the accommodation of the claims that *do* arise out of them. Of course, taking seriously concrete realities of unauthorized life does not always or necessarily run into this problem. For instance, sociological studies (e.g. Menjívar, 2006) have provided powerful accounts of the long-term trauma and burden experienced by immigrants of 'liminal' rather than permanent legality, which our policymaker may well take as supportive of the suggestion of continuously available regularization with minimal preconditions. Nevertheless, there is the persisting suspicion that (even fuzzy) demands arising out of the conditions of unauthorized life sometimes cannot be seriously entertained or even understood by policymakers bound to a mainstream, liberal-democratic field of action. Still, policymakers are ill-advised to habitually consign such concrete experiences and the political claims that may arise out of them to the margins of their reflections. Truly conscientious policymaking is not simply ticking off preordained value boxes – even those belonging to the basic framework of liberal-democratic politics – when confronted with concrete problems of some complexity. Instead, truly conscientious policymakers continuously revise their ideal frameworks in response to the material realities of their subjects, and the claims that arise out of such realities.

It is time to sum up. I have argued that a liberal-democratic policymaker's best interpretation of their own value commitments should lead them to endorse both 'firewall' and 'regularization' policies in response to unauthorized immigrant residence. Taking into account the state's interest in immigration control, these policies end up in tension with one another, and an ethical dilemma about which one to pursue is liable to arise. I have contended that this dilemma can be mitigated by designing the regularization policy such that friction between the two policies is minimized, namely by rendering it permanently accessible and predicating eligibility only on a minimal 'duration-of-residence' condition. But I have also suggested that a truly bottom-up approach to the phenomenon of unauthorized residence may complicate straightforward responses.

References
Acosta Arcarazo, D., & Wiesbrock, A. (2015). *Global Migration: Old Assumptions, New Dynamics [3 Volumes]*. ABC-CLIO.
Ambrosini, M. (2023). 'Moral Economy and Deservingness in Immigration Policies. The Case of Regularisations in Italy'. *Ethnicities*, 23(2), 306–330. https://doi.org/10.1177/14687968221117544

Baker, S. G. (1997). The Amnesty Aftermath: Current Policy Issues Stemming from the Legalization Programs of the 1986 Immigration Reform and Control Act. *International Migration Review,* 31(1), 5–27. https://doi.org/10.1177/01979 1839703100101

Bauböck, R. (2009). Global Justice, Freedom of Movement and Democratic Citizenship. *European Journal of Sociology,* 50(1), 1–31. https://doi.org/10.1017/S000397560900040X

Bauböck, R., Permoser, J. M., & Ruhs, M. (2022). The Ethics of Migration Policy Dilemmas. *Migration Studies,* 10(3), 427–441. https://doi.org/10.1093/migration/mnac029

Bommes, M., & Sciortino, G. (Eds.). (2011). *Foggy Social Structures: Irregular Migration, European Labour Markets and the Welfare State*. Amsterdam University Press.

Borjas, G. J., & Cassidy, H. (2019). The Wage Penalty to Undocumented Immigration. *Labour Economics,* 61, 101757. https://doi.org/10.1016/j.labeco.2019.101757

Bracco, E., & Onnis, L. (2022). Immigration, Amnesties, and the Shadow Economy. *Bulletin of Economic Research,* 74(4), 1135–1162. https://doi.org/10.1111/boer.12337

Brick, K. (2011). *Regularizations in the European Union: The Contentious Policy Tool*. Migration Policy Institute. https://www.migrationpolicy.org/pubs/EURegularization-Insight.pdf.

Carens, J. H. (2013). *The Ethics of Immigration*. Oxford University Press.

Celikates, R. (2022). Remaking the Demos "from Below"? Critical Theory, Migrant Struggles, and Epistemic Resistance. *Crisis under Critique: How People Asses, Transform, and Respond to Critical Situations* (pp. 97–120). Columbia University Press. https://doi.org/10.7312/fass20432-007

Chauvin, S., & Garcés-Mascareñas, B. (2012). Beyond Informal Citizenship: The New Moral Economy of Migrant Illegality. *International Political Sociology,* 6(3), 241–259. https://doi.org/10.1111/j.1749-5687.2012.00162.x

Chauvin, S., Garcés-Mascareñas, B., & Kraler, A. (2013). Working for Legality: Employment and Migrant Regularization in Europe. *International Migration,* 51(6), 118–131. https://doi.org/10.1111/imig.12109

Cohen, E. F. (2020). *Illegal: How America's Lawless Immigration Regime Threatens Us All*. Basic Books.

Collingwood, L., & O'Brien, B. G. (2019). *Sanctuary Cities: The Politics of Refuge*. Oxford University Press.

Crépeau, F., & Hastie, B. (2015). The Case for "Firewall" Protections for Irregular Migrants: Safeguarding Fundamental Rights. *European Journal of Migration and Law,* 17, 157–183.https://doi.org/10.1163/15718166-12342076

Ellermann, A. (2014). The Rule of Law and the Right to Stay: The Moral Claims of Undocumented Migrants. *Politics & Society,* 42(3), 293–308. https://doi.org/10.1177/0032329214543255

Gerver, M. (2022). The Case for Permanent Residency for Frontline Workers. *American Political Science Review,* 116(1), 87–100. https://doi.org/10.1017/S0003055421000708

Gibney, M. (2009). Precarious Residents: Migration Control, Membership and the Rights of Non-Citizens. *Human Development Research Paper (HDRP) Series,* 10. https://mpra.ub.uni-muenchen.de/19190/.

Hall, S. (2021). Variants of Liberalism [1986]. In G. McLennan & S. Hall (Eds.), *Selected Writings on Marxism* (pp. 227–46). Duke University Press.

Hermansson, L., Lundberg, A., Gruber, S., Jolly, A., Lind, J., Righard, E., & Scott, H. (2022). Firewalls: A Necessary Tool to Enable Social Rights for Undocumented Migrants in Social Work. *International Social Work,* 65(4), 678–692. https://doi.org/10.1177/0020872820924454

Horton, S. B. (2020). Introduction. Paper Trails: Migrants, Bureaucratic Inscription, and Legal Recognition. In S. B. Horton & J. Heyman (Eds.), *Paper Trails: Migrants, Documents, and Legal Insecurity* (pp. 1–26). Duke University Press.

Hosein, A. O. (2014). Immigration: The argument for legalization. *Social Theory and Practice,* 40(4), 609–630.

Hosein, A. O. (2016). Arguments for Regularization. In A. Sager (Ed.), *The Ethics and Politics of Immigration: Core Issues and Emerging Trends* (pp. 159–179). Rowman & Littlefield.

Kobach, K. W. (2008). Reinforcing the Rule of Law: What States Can and Should Do to Reduce Illegal Immigration. *Georgetown Immigration Law Journal,* 22(3), 459–483.

Lenard, P. T. (2015). The Ethics of Deportation in Liberal Democratic States. *European Journal of Political Theory,* 14(4), 464–480. https://doi.org/10.1177/1474885115584834

Levinson, A. (2005). *The Regularisation of Unauthorized Migrants: Literature Survey and Country Case Studies.* Centre on Migration, Policy and Society, University of Oxford. https://www.compas.ox.ac.uk/wp-content/uploads/ER-2005-Regularisation_Unauthorized_Literature.pdf.

Maas, W. (2010). Unauthorized migration and the politics of regularization, legalization, and amnesty. In G. Menz & A. Caviedes (Eds.), *Labour Migration in Europe* (pp. 232–50). Palgrave Macmillan UK. https://doi.org/10.1057/9780230292536_10

Mann, I., & Permoser, J. M. (2022). Floating sanctuaries: The ethics of search and rescue at sea. *Migration Studies,* 10(3), 442–463. https://doi.org/10.1093/migration/mnac007

Martin, S. F. (2022). *Lessons from U.S. Legalisation: A response to song and Bloemraad*. Migration Policy Centre (MPC), European University Institute (EUI). https://migrationpolicycentre.eu/docs/dilemmas/4th_dilemma_4th_response.pdf

Mendoza, J. J. (2017). *The Moral and Political Philosophy of Immigration: Liberty, Security, and Equality*. Lexington Books.

Menjívar, C. (2006). Liminal Legality: Salvadoran and Guatemalan Immigrants' Lives in the United States. *American Journal of Sociology,* 111(4), 999–1037. https://doi.org/10.1086/499509

Menjívar, C., & Lakhani, S. M. (2016). Transformative Effects of Immigration Law: Immigrants' Personal and Social Metamorphoses through Regularization. *American Journal of Sociology,* 121(6), 1818–1855. https://doi.org/10.1086/685103

Miller, M. (2002). Continuity and Change in Postwar French Legalization Policy. In A. M. Messina (Ed.), *West European Immigration and Immigrant Policy in the New Century* (pp. 13–32). Paeger.

Miller, D. (2007). *National Responsibility and Global Justice*. Oxford University Press.

Ordóñez, J. T. (2020). Strategies of Documentation Among Kichwa Transnational Migrants. In S. B. Horton & J. Heyman (Eds.), *Paper Trails: Migrants, Documents, and Legal Insecurity* (pp. 208–28). Duke University Press.

Perlmutter, T. (2014). Political Parties and Italian Policy, 1990–2009. In J. F. Hollifield, P. L. Martin, & P. Orrenius (Eds.), *Controlling Immigration: A Global Perspective* (3rd ed., pp. 341–65). Stanford University Press.

Pla, Y. P. (2020). *Spain/Portugal/Italy: Partial Relief: Migrant Regularisations during the COVID-19 Pandemic*. Statewatch. https://www.statewatch.org/analyses/2020/spain-portugal-italy-partial-relief-migrant-regularisations-during-the-covid-19-pandemic/

Di Porto, E., Martino, E. M., & Naticchioni, P. (2018). 'Back to black? The impact of regularizing migrant workers'. Working Paper No. 517. CSEF - Centre for Studies in Economics and Finance. http://www.csef.it/WP/wp517.pdf

Reed-Sandoval, A. (2020). *Socially Undocumented: Identity and Immigration Justice*. Oxford University Press.

Rigby, J., & Schlembach, R. (2013). Impossible Protest: NoBorders in Calais. *Citizenship Studies, 17*(2), 157–172. https://doi.org/10.1080/13621025.2013.780731

Ruhs, M. (2013). *The Price of Rights: Regulating International Labor Migration*. Princeton University Press.

Schmid, L. (2022). Saving Migrants' Basic Human Rights from Sovereign Rule. *American Political Science Review, 116*(3), 954–967. https://doi.org/10.1017/S0003055422000028

Song, S., & Bloemraad, I. (2022). Immigrant Legalization: A Dilemma between Justice and the Rule of Law. *Migration Studies, 10*(3), 484–509. https://doi.org/10.1093/migration/mnac014

Timmerman, R. I., Leerkes, A., Staring, R., & Delvino, N. (2020). "Free In, Free Out": Exploring Dutch Firewall Protections for Irregular Migrant Victims of Crime. *European Journal of Migration and Law, 22*(3), 427–455. https://doi.org/10.1163/15718166-12340082

United States Supreme Court. (1982). *Plyler v. Doe, 457 U.S. 202*. https://supreme.justia.com/cases/federal/us/457/202/

Walzer, M. (1983). *Spheres of Justice: A Defense of Pluralism and Equality*. Basic Books.

Wilmes, M. (2011). Irregular Migration and Foggy Organisational Structures: Implications of a German City Study. In M. Bommes & G. Sciortino (Eds.), *Foggy Social Structures: Irregular Migration, European Labour Markets and the Welfare State* (pp. 117–140). Amsterdam University Press.

Wong, B. (2021). *Amnesty Is Unfair to Legal Immigrants Like Me*. National Review. https://www.nationalreview.com/2021/09/amnesty-is-unfair-to-legal-immigrants-like-me/.

Zürn, M., & Gerschewski, J. (2021). *Sketching the Liberal Script. A Target of Contestations*. SCRIPTS Working Paper 10. https://www.scripts-berlin.eu/publications/working-paper-series/Working-Paper-No_-10-2021/SCRIPTS_Working_Paper_10_WEB.pdf.

Publisher's Note

Springer Nature remains neutral with regard to jurisdictional claims in published maps and institutional affiliations.