



Migration Research Group

**Observations on Regularization and the Labor Market
Performance of Unauthorized and Regularized Immigrants**

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1. Introduction

The regularization, or legalization,¹ of unauthorized immigrants has become a central, if controversial, policy tool in many developed countries' struggle to manage irregular immigration. Because of the sheer size of irregular immigration in the advanced industrial world, regularization programs have become a significant source of legal workers and, in many instances, of prospective citizens. Thus, the labor market and broader effects of such policies are of critical importance. If regularizations can be shown to lead to productivity gains, increase employment, or shift production from the informal to the formal sector, they become relatively more attractive policy tools. Mindful that many policy decisions often must be (and are) made on the basis of incomplete and even speculative information, this essay will focus on how context and program design and implementation affect regularization outcomes.

Unfortunately, little that is definitive is known about the labor market effects of regularization programs. In part, this is the result of severe knowledge gaps about irregular immigration itself. The size of clandestine immigration is difficult to estimate with much confidence under the best of circumstances due to the underground nature of the activity itself. Knowing the unauthorized immigrant population's demographic and human capital characteristics is equally difficult—at least beyond the information provided by a few case studies. This paper thus will be by necessity speculative in its attempt to fill some of the analytical and interpretative voids with limited literature. As a result, readers must use appropriate caution on how they use the observations made here.

Many observers of international migration believe that the number of irregular migrants (both stock and flow) in Organization for Economic Cooperation and Development (OECD) countries is in the 20 million range. The majority of them entered OECD countries in the last ten years or so. About half of them are thought to be in the United States, where estimates of the unauthorized population are relatively robust, while the pre-2004 Enlargement European Union (EU), the EU-15, may be host to as much as half of the remainder. Germany is thought to lead that group but the U.K. and the Union's entire southern flank are also major destinations for unauthorized migrants. The rest of the world is probably host to a similarly large number of irregular migrants,

¹ The term “legalization” has more often been used in the Americas, where such programs in the U.S., Canada, and several South American countries have largely granted their beneficiaries permanent settlement rights. The term “regularization,” on the other hand, has been used more in the European context, where grants of temporary residence and work permission have been more common (although France, Belgium, and others have also granted permanent residence). For the purposes of the paper we use the terms interchangeably.

although estimating that population's ultimate size will depend on the observer's definition of the relevant universes and his or her tolerance for high levels of uncertainty.

The large size and high rate of growth of irregular migration since the early 1990s have placed the issue at or near the center of policy and political debates in all OECD countries. The reasons are many and mostly obvious. Irregular immigration erodes confidence in the rule of law, can undermine and pervert the targeted society's domestic policy priorities, can strain public health and welfare systems to varying degrees. Furthermore, irregular migration also promotes illegality and, in some instances, associated criminal activity. Finally, and all too often, irregular migration costs the lives of desperate people and creates a class of modern day indentured servants willing to do whatever it takes to get to and remain in the countries of destination.

A complete assessment of clandestine immigration's costs and benefits, however, must also consider the phenomenon's economics, which tend to be more positive. Irregular immigrants bring substantial economic benefits to their host countries in their capacity as workers. Their labor brings down the costs of goods and services for all, makes firms and sometimes entire industries more competitive, and often has significant ripple ("up-" and "down-stream") economic benefits for associated firms and industries. In many instances, irregular immigration also expands the general economic activity from which taxes and public contributions are drawn.

As will be shown below, these economic benefits tend to be stronger in receiving states where immigration and labor regulations, and the way in which these regulations are enforced, allow these immigrants to find work. In most EU states, however, high levels of regulation, and the more stringent implementation of rules, push such immigrants largely into informal, undeclared, irregular, or "black market" activities in which they are relatively less likely to be detected by the authorities.² As a result, their work becomes an economic activity whose benefits to the state are not always either clear or easy to quantify.

An example might help illustrate how complicated the calculation of these effects are. Consider the case of an unauthorized immigrant who is employed off-the-books as a domestic caretaker to an elderly couple. Without this immigrant, the couple might not be able to get adequate care,

² These terms often have very different meanings. Here, we use them to mean economic activities in which the government's normal oversight over work standards and tax and social contribution requirements is not being effectively exercised. In this essay, we will use the term "irregular employment," to refer to a spectrum of activities. These might range from employment in sectors where the government has traditionally exercised little of its regulatory responsibilities (such as day labor, agricultural work or domestic services) and "off-the-books" employment is the norm (benignly labeled "informal employment"), to arrangements where avoiding social contributions or government rules altogether may be an explicit goal. These last activities are also known as "black" employment.

might have to pay more for such care, or might be forced to get care by entering into a publicly supported nursing home. While some of these scenarios are clearly not applicable in most EU Member States today, they do apply to other OECD countries and may also come to apply more to European states at some time in the future if the full range of social supports now available becomes unaffordable. In the example above, the irregular immigrant in effect augments the public services available to this couple and complements any income support or health care benefits the state may be providing to them. Yet, the immigrant's work does not contribute directly either to the tax coffers of the state or to the pension system that supports the couple.

This example is chosen because it is particularly relevant to the aging populations of most OECD countries and outlines one set of circumstances under which regularizations may be attractive from an economic perspective. Regularization programs hold the promise of bringing much-needed workers into the formal sector, where they can be protected and both they and their employers can be taxed. Regularization also has the potential to create productivity gains and reduce distortions in the economy, by allowing workers to be paid fairly, to have their qualification and skills recognized, to seek out the positions in which they are most productive, and to obtain training and education that can make them more productive yet. Thus, legalizing the status of unauthorized immigrants is attractive relative to the other options for dealing with large clandestine populations, such as expulsion, for economic, as well as practical and social reasons. Renewed sensitivity about terrorism makes regularization even more attractive, by creating an opportunity for state authorities to find out the identity (and thus pass individuals through the necessary security screens) and whereabouts of the largest possible number of those living clandestinely in their countries.

However, while regularization may be a necessary condition for success in the labor market of many states, there is no guarantee that it is sufficient. If the skills of the regularized immigrants do not match the needs of the formal labor market or if there are insufficient incentives for either employer or immigrant to engage in formal sector activities, then they may remain unemployed or revert and/or continue to work in the irregular sector. The existence of high rates of unemployment and of irregular employment among *native* populations in many European countries makes this both a relevant and a pressing concern.

This paper assesses the available evidence about regularization programs in the advanced industrial world. It presents and discusses some of the rather meager evidence on whether regularization programs have succeeded in reducing irregular employment, encouraging formal employment, and allowing immigrants to become more productive. It is important to emphasize once more, however, the speculative nature of this exercise, as the evidence on these issues is

both sketchy and unclear. In fact, with the exception of some U.S. studies, few studies elsewhere address these post-regularization questions directly. The reason to persist despite the paucity of evidence is compelling: a better understanding of the economic and social contexts in which regularizations have occurred allows some lessons to be drawn regarding both the general effects of regularizations and the contextual and policy factors that affect these outcomes.

Much of the analysis presented here draws on the experience of the United States with the legalization program it undertook as part of its Immigration Reform and Control Act (IRCA) of 1986. This program is the largest and most-studied legalization program anywhere. It was also among the most smoothly administrated (it processed more than three million decisions in about two years at relatively low cost to the public purse) and, arguably, the most generous in its terms. Each of these factors makes it a natural “baseline” from which to assess the potential of legalization programs to achieve some of the goals identified earlier. The analysis does not stop there. We use what evidence exists from the various legalization programs undertaken by various EU countries to show where the lessons of IRCA are more robust and where they are more speculative or mixed. We also use that evidence to draw out those observations which may be generalizable across most developed countries, and those that are unique to a specific country or context.

2. The Context: Illegally-Resident Immigrants and the Irregular Labor Market

To begin to understand the effects of legalization programs on labor market performance, it is important to understand first the relationship between unauthorized immigration and irregular employment—a relationship that varies greatly across countries. This relationship is critical to the outcome of regularization programs.

As noted earlier, the United States, with an estimated 10 million unauthorized immigrants, probably hosts as many unauthorized immigrants as all other developed countries together. Unauthorized immigrants are a significant population relative to the U.S.’s immigrant population as a whole (26 percent), the workforce (5 percent) and the general population (3 percent). In part, this is due to America’s attitudes toward immigration in general. Unauthorized immigrants in the U.S. are integrated into American life in remarkable ways: in many cases, they own homes and businesses, their children attend schools and may even be U.S. citizens, and their labor is increasingly vital to an ever-broadening spectrum of economic activities. Yet, the U.S. does not appear to have an unusually large underground economy.

The simultaneous existence of a very large number of unauthorized immigrants and a relatively small underground economy can be explained in large part by the unparalleled flexibility of the U.S. labor market and the relative ease with which employers can hire unauthorized immigrants “on-the-books.” Since the late 1980s, employers in the United States can be penalized for hiring unauthorized workers, but only if they do so “knowingly.” In fact, anti-discrimination legislation prohibits employers from making inquiries about their prospective employees’ immigration status before they hire them, and even at the moment of hiring the employer must merely look at and copy the required work-authorizing documents; “face validity” is thus the only standard they need observe. As a result, a large document fraud industry has arisen that allows unauthorized workers to quite easily pass the cursory checks that employers are required to make.

In addition, some of the law’s requirements have encouraged the growth of labor subcontracting, which has made it easier for employers to insulate themselves further from liability from possible immigration violations. Finally, widespread public and governmental ambivalence about both undocumented migration and worry about too much interference with employers has led the U.S. federal government to invest little in enforcing its own regulations. For instance, in fiscal year 2002 only 53 employers were fined for employing undocumented workers and 451 unauthorized immigrants were arrested as a result of workplace immigration status enforcement. This compares to 955,310 unauthorized immigrants who were captured at or near the border and were essentially pushed back to Mexico (USDHS, 2003).

This picture is less paradoxical than it may appear at first. The U.S. labor market is extremely flexible—with minimum wage standards, mandatory health and pension contributions, severance pay requirements, payroll taxes and other non-wage costs to employers being low by many European standards. Thus, U.S. employers find that it is relatively easy to hire (and fire) unauthorized immigrants, as well as pay them on-the-books; in fact, they have relatively little incentive to hire them off-the-books. As a result, most unauthorized immigrants in the United States who work, work in the formal sector. For instance, several million unauthorized workers pay taxes even though they are not entitled to social benefits such as welfare or social security. In fact, the U.S. Social Security Trust Fund reported a surplus of more than \$49 billion in 2000 from payroll collections from persons with invalid social security identification numbers (SSA, 2003).

In stark contrast, unauthorized foreign workers in Europe and elsewhere in the advanced industrial world seem to be much more likely to work in the irregular or underground economy. In most countries, this is explained in part by the more rigorous enforcement of prohibitions against employing unauthorized foreigners, and by the far greater degree of oversight of employment

arrangements by the state. Such actions make it more difficult for unauthorized workers to find formal, on-the-books employment. However, this also has to do with the larger size of the irregular economy in general in much of Europe, and particularly in southern European countries, and with the slower spread of formal sector growth in low wage employment.

On-the-books employment is expensive in much of Europe due to a tradition of high wages and steep social contributions, inflexibility with regard to employee retention decisions, and union-negotiated limits on what tasks a worker can perform. For example, non-wage costs add about 46% to the cost of labor in Germany, but only 17% in the United States (Freeman and Schettkat, 2001). Complex regulations and bureaucratic micromanagement of the labor market can raise the effective cost of employment even more. Economic theory argues that these costs have the effect of discouraging formal employment and providing a substantial incentive for employers and workers to make informal labor arrangements. Of course, enforcement rigor and the severity of the costs for non-compliance will modulate the degree of compliance. A host of other factors—such as the effectiveness and efficiency of both the enforcement effort and the legal system—are also involved in setting the irregular employment “equilibrium.” Where off-the-books job opportunities are plentiful, unauthorized immigrants fuel the irregular labor market even more—thus making the underground economy ever more “efficient.”

The size of the underground economy, like the size of the unauthorized immigrant population, is by its very nature difficult to measure. Studies based on surveys and on discrepancies in national accounts estimate that the irregular economy accounts for around 5% or less of national production in most EU-15 countries but is far larger—up to 17% of GDP—in a few southern Member States (OECD, 2004; Renooy, et al., 2004). Little reliable time series data exist from these estimates, however: in Denmark, a series of surveys showed irregular employment rising in the early 1990s before falling slightly toward the end of the decade (Pedersen, 2003). A second type of study, based on using electricity consumption or the demand for money as proxies for production, has yielded estimates of irregular production that have been rising over time. These latter estimates are much higher than those found through surveys and national accounts estimates, but the methods on which they rely are not generally accepted as yielding accurate results (Schneider, 1999, 2003).

Overall, then, in the United States, the employment opportunities of irregular immigrants are not limited to underground work. As a result, legalized immigrants do not have to slip back into the underground economy. That sector is rather small. Most immigrants, regardless of legal status, thus work in the formal economy. In countries where the underground economy is larger, both

irregular and legalized workers might continue to work irregularly (as many of their native-born colleagues do already) despite receiving the legal right to work.

The policy point here is that when a state considers a regularization program it must first understand how irregular immigrants interact with its underground economy—and seek to address that issue first. Otherwise, regularizations will not substantially affect irregular employment and may principally lead to more regularizations—a phenomenon that has become somewhat of a trend in some advanced industrial economies.

An additional contextual point is important to note here. The unauthorized immigrant population itself is not a monolith. Rather, it is very diverse—in terms of country of origin, education and training, language skills, age, access to and quality of social networks, and date of entry. Each of these attributes is associated with different levels of labor market integration and performance. Furthermore, the mode of unauthorized entry and/or work also matters in ways beyond the technical aspect of each violation. Some may have entered clandestinely. Others may have entered on a tourist or other non-work visa (such as the family member of a legal worker) and violated the terms of that visa by working. Others yet may have overstayed a work permit or may be working outside the terms of that permit. Finally, some are certain to have been rejected as asylum applicants, yet have stayed on, or are asylum applicants whose request for protection has not been adjudicated yet and are thus not allowed to work. Such administrative distinctions—what might be called the “legal demography” of irregular immigration—likely matter a great deal in the context of a regularization program. For example, both a visa overstayer and an asylum applicant may be working illegally, but only the former is likely to be affected by most regularization programs. In addition, human capital characteristics and labor market performance can vary considerably among different groups of irregular immigrants, making the labor market and broader economic gains from regularization also quite variable.

While most OECD countries can expect the overwhelming majority of their irregular immigrants to be visa overstayers, countries that share long borders with or are otherwise near countries with large developing or transitional economies (e.g. Southern and Eastern European countries, or the United States) also experience large illegal border crossings. Most EU Member States also experience substantial inflows of newcomers who seek asylum under false pretenses—so as to remain in these countries even after their status has been denied. Of course, the fact that most EU states offer extremely limited avenues for regular immigration clearly contributes to efforts to subvert the asylum determination system.

3. The Varying Structures of Regularization Programs

The regularization/legalization programs that will be discussed here vary considerably in intent and structure (Table 1; North, 1982; Meissner, North and Papademetriou, 1986; Apap, de Bruycker and Schmitter, 2000). Among the first decisions such programs confront is the terms under which one will qualify for regularization. Will all unauthorized immigrants be eligible for regularization? Will regularization extend only to a particular group, such as those who have not qualified as convention refugees but nonetheless deserve humanitarian protection? Will those who have entered under now-expired work permits be allowed to apply for regular status? The answers to these questions form a spectrum, with the criteria chosen likely to have an impact on both the overall success of the regularization program and labor market outcomes. The following are among the most common requirements for regularization.

3.1 *Employment*

Many regularization programs require that applicants be employed at the time of regularization and have a record of regular employment; some programs may also require that applicants have a job offer in the formal sector. The employment requirement has an obvious logic: it offers legal status only to those unauthorized migrants who can demonstrate their ability to be attached to the labor market in the formal economy and allows the government to argue to the broader public that only “productive” or otherwise “needed” migrants will be allowed to stay. However, such a requirement may do little to advance the larger goal of regaining control over the irregular employment market. In Portugal, Spain, Greece and Italy large numbers of irregular migrants are thought to have been unable to qualify for regularization because they could not prove their employment *bona fides*. Worse yet, some of those who were able to regularize lapsed back into unauthorized status at a later time because they could only find employment in the black economy.

3.2 *Date or Method of Entry and/or Continuity of Residence*

Many regularization programs set a “cut-off” date, allowing only migrants who entered before that date to regularize. This is intended to discourage migrants from attempting to enter a state with the explicit purpose of regularizing. In some programs additional requirements are imposed, as in the United States’ regularization program in the late 1980’s which required applicants to show that they had resided “continuously” in the country since the cut-off date, or the program initiated in Belgium in 1999, which required 6 years of residence but excluded immigrants who had received an order to leave within the preceding five years. The rationale behind a residence

requirement is again deceptively simple. Longer-term irregular immigrants are most likely to have established significant social and work relationships. This makes them not only less likely to leave voluntarily, but also likely to have more host labor market-specific work experience and better access to social networks. Both of these factors enhance post-regularization employment prospects and may even increase one's productivity potential. Such requirements, on the other hand, can exclude a large proportion of the unauthorized immigrant population from regularization, thus undermining one of the program's goals. The immigrants excluded from regularization help preserve habits of employing unauthorized workers both formally but particularly informally and, as relatives and fellow nationals join them, form the nucleus for the regeneration of the unauthorized immigrant population.

3.3 *Family Ties*

Moving down the spectrum toward the more "humanitarian" reasons for granting regularizations, a number of countries have awarded regularization on the basis of marriage or another immediate family relationship to a citizen or legal resident, or to the parents of minor children born in the territory of the host country. In the most recent regularization program in France, in 1997, most of those who obtained regularization did so on the basis of close family ties. This rationale has three reinforcing elements to it. First, such a regularization directly benefits the relevant citizens or legal residents in a very important way, giving the program an additional constituency. Second, generally speaking, those with legally resident family members are among those with the least incentive to return to their home countries. Third, the presence of legally resident anchor relatives can amplify the process of immigrant integration in both the economic and social realms. Depending on the rules in each country, however, some of these unauthorized immigrants may eventually also become eligible for legal status via normal immigration channels—through a *de facto* "rolling" regularization program of sorts—therefore diminishing the need for repeated large regularization programs.

3.4 *Humanitarian Considerations*

Some regularization programs have sought to regularize immigrants who may deserve humanitarian protection but who may not qualify for Convention refugee status (those fleeing persecution that is not sanctioned by the government of the nation of origin, for example). Countries often resort to such regularizations when temporary protection grants (the terminology varies from place to place) have to be extended repeatedly and/or when it becomes clear that the conditions at the country of origin that necessitated the protected persons' flight in the first place are not likely to be corrected within any reasonable time frame. In other cases, the regularization

may be a response to failures in the asylum system by granting legal status to asylum applicants whose applications have been pending for excessively long periods. Most countries practice these forms of regularization but they often occur below the political radar screen. Such regularizations are another form of “rolling” acquisition of legal status and are typically conducted on a case-by-case basis by administrative or judicial authority and are generally based on special hardships. Although rather small in number, such regularizations are carried out in almost all developed countries.

3.5 *Country-specific Programs*

In some cases, regularization programs have been aimed at immigrants from particular countries. Often times these individuals have faced exceptional circumstances, as in displaced Bosnians in Belgium and elsewhere in Western Europe. In other cases, however, country-specific legalizations have been adopted for more practical reasons, such as length of presence, historical ties, and political realities. This latter practice however, seems to have fallen out of favor with policy makers and politicians alike. The United Kingdom held such a regularization program for Pakistanis in the 1970s. The U.S. has conducted such programs for groups ranging from the Irish in the late 1980s, to the Nicaraguans, other Central Americans, and Haitians in the late 1990s.

3.6 *Temporary vs. Permanent Status*

Another set of major decision designers of regularization programs face is the time and conditions of the successful applicant’s stay. At their most “generous,” regularization programs grant the regularized permanent residence and work permission; family reunification privileges may also be included, if with some delay. The so-called “traditional countries of immigration” in the Americas have typically followed that policy route, although European nations have also granted permanent status through regularization. In other cases, only temporary permission is granted, and the privilege of bringing even the closest family members may be denied.

This choice has much to do with a country’s attitudes about permanent immigration and its views on how much to embrace the regularized immigrants. It also has labor market implications. Granting “temporary” status may not lead to temporary stays: unauthorized immigrants may have established strong labor market and social ties and may be working in jobs that are “permanent” in every sense of the term—even if they are irregular. And when the regularized have little choice but to continue working irregularly, even after regularization, the end of their temporary residence period is likely to provide them with insufficient reason to leave the country. Additionally, temporary status, in theory at least, fails to create sufficient incentives to maximize the social and

economic contributions of the regularized immigrants: if such persons believe that their tenure in the country is limited, they are much less likely to make human capital investments or to engage with the community in which they live. Nor are their employers likely to think of them as long-term workers and consider investing in them. Finally, evidence suggests that immigrants become more productive with time in the country and with experience in a particular job. That implies that requiring immigrants to leave (or allowing them to fall into irregular employment) forgoes the labor market and economic advantage of accumulated experience.

One must finally consider the effects on those unauthorized immigrants who are not conferred legal status through a regularization program. These effects can be very important. Evidence from Greece and the United States suggests that those immigrants who were not regularized were pushed further underground, especially with regard to labor market and broader social integration (Cavounidis, forthcoming; Phillips and Massey, 1999). This finding may not be robust enough, as many other conditions shape labor market performance. However, a seemingly obvious point must be considered nonetheless: if the intent of regularization is also to maximize the labor market performance of the undocumented, most foreign workers should be eligible for participation lest the overall effort be severely handicapped.

See Table 1 in Annex

4. Labor Market Performance of Unauthorized Immigrants Before and After Regularization: Evidence from the United States

The regularization of about 2.8 million unauthorized immigrants in the United States under the 1986 Immigration Reform and Control Act is the largest and maybe the best-known and most intensively studied regularization program anywhere. The relative wealth of knowledge about IRCA's effects provides a ready-made framework for showing the effects of regularization on the labor market performance of legalized immigrants. This makes IRCA a useful example despite the large differences between the US and European contexts both with regard to immigration and the organization of labor markets.

Much of the information about IRCA comes from two "Legalized Population Surveys" (LPS) conducted by the U.S. government in 1989 and 1992, well after the legalization program had been completed (USDOJ, 1992; USDOL, 1996). These surveys asked a random sample of about 6,000 successful legalization applicants a large number of human capital and labor market questions that reached back to before 1982—the qualification date for the program.

Specifically, the two surveys asked legalized immigrants about their labor market experiences before they came to the United States, immediately after they entered the United States, at the moment they applied for legalization, and at the time they filled out the final survey in 1992. The survey thus offers an unusually robust picture of a population on which it is notoriously difficult to collect reliable information. Of course, the survey did not collect information on those who did not apply or qualify for legalization. For this reason, we also examine other sources of data on both the legalized and non-legalized population, as well as on immigrant workers in general.

IRCA granted permanent residence status to four classes of unauthorized immigrants. The most numerous group consisted of about 1.7 million unauthorized immigrants who could demonstrate that they had been continuously resident in the United States since January 1, 1982.³ The next largest group, consisting of about 1.3 million people, were required to demonstrate that they had worked more than 90 days in the perishable crop agricultural sector in the previous year, or more than 30 days in each of the previous three years. Other provisions of the legislation offered legal permanent status to a small group of Haitian and Cuban immigrants (largely for humanitarian reasons), as well as any illegally-resident immigrant who could show “continuous” residency in the United States since before 1972. Both of these last two categories resulted in only a small number of regularizations (Papademetriou, 1986; Meissner, North and Papademetriou, 1987; Meissner and Papademetriou, 1988).

IRCA created more than just a regularization program, however. It also made hiring an unauthorized worker illegal for the first time in U.S. history and enacted a system of sanctions that targeted employers. However, and as noted earlier, by holding employers liable only if they “knowingly” hired an unauthorized immigrant, the 1986 law created a thriving document fraud industry and initiated a growing reliance on middlemen, subcontractors and day-laborers. Finally, IRCA also called for an increase in border enforcement—a provision that did not begin to be implemented until the mid-1990s.

4.1 Employment and Workforce Participation

The immigrants legalized under IRCA reported rates of labor force participation that exceeded those of the overall U.S. population. In 1992, 81 percent of legalized immigrants 21 years old or above were working or looking for work, as compared to 79 percent of the general US population aged 16 to 64. The rate of labor force participation for the legalized population had dropped

slightly since legalization, primarily as a result of women and older men leaving the workforce. Speculation that this drop may have been the result of the legalized population's access to social services and/or welfare is incorrect because the newly legalized had restricted access to such programs. Another change is also worth mentioning. The percentage of workers in the legalized group who worked more than 40 hours per week dropped slightly after regularization, although it remained higher than the rate in the general population.

Unemployment rates, however, also climbed for the legalized population from the time of application for legal status to 1992. At the time of application, the legalized population had an unemployment rate of about four percent, while the general population had an unemployment rate of six percent. In 1992, the situation had nearly reversed, with the legalized population's unemployment rate standing at six percent, and that of the general population at five percent. This is due largely to the higher vulnerability of less-skilled populations to cyclical downturns. For instance, the Hispanic population in the United States (a group that included the vast majority of the legalized population and is less skilled, on average, than the overall US population) had unemployment levels of 9.8 percent in 1991 (Suro and Lowell, 2002). Thus, one can discern little direct effect of legalization on unemployment. In fact, more than three-quarters of the legalized immigrants surveyed in 1992 said that being legalized had made finding a job easier.

4.2 Wages

As a group, those legalized under IRCA appeared to be making little progress in terms of wages and earnings prior to legalization. At the time they applied for legal status those surveyed earned an average of \$7.57 per hour in 1992 dollars, less than the \$7.59 they earned during their first year in the United States and the \$8.98 that the average U.S. non-farm, non-supervisory worker earned. However, this finding is not as significant as it seems: the period in question saw the wage growth of the American workforce as a whole stagnate (despite robust wage growth by women). This suggests that unauthorized immigrants performed reasonably well in the pre-IRCA era. More significantly, from the time of application to 1992, the average wage earned by the surveyed legalized group climbed to \$10.33, a growth rate that matched that of US workers in general (USDOL, 1996).

Kossoudji and Cobb-Clark (2002), using a subset of the IRCA LPS survey data that included only Mexican men, found a wage penalty of up to 22 percent for being undocumented, and estimated that legalization delivered a 6 percent rise in wages. Rivera-Batiz (1997) estimated that legalized

³ Originally, immigrants could be legalized only if they had never left the United States after the 1982 cut-off-date. However, later court cases reinterpreted “continuous residence” to apply also to people who had

immigrants experienced a rise in real wages of 8 percent for men and 13 percent for women that could not be explained by other observable characteristics (and thus was presumably caused by legalization). Phillips and Massey (1999), using a survey of Mexican households, offer support for a significant wage variance between authorized and unauthorized immigrant. In their sample, after controlling for other characteristics, unauthorized immigrants earned 23 percent less on average than their legalized countrymen. Phillips and Massey argue that this differential was caused not so much by the benefits of legalization as by increases in discrimination against undocumented immigrants as a result of the law's having made hiring unauthorized immigrants illegal.

Wage gains in the post-legalization period were unevenly distributed among the legalized population. Those who had been in the country the longest, and whose wages remained higher than those of recent entrants, saw no growth, and even experienced slight declines. So did the least educated, those with limited English ability, and those who failed to move out of "lowest rung" occupations, such as farm and domestic work (Kossoudji and Cobb-Clark, 2002). These very much match overall trends in the American economy: less-skilled workers, in general, have seen a gradual erosion of their earning power.

4.3 *Human Capital*

Surveys of legalized workers showed that prior to legalization, these workers had lower levels of education (and lower wages) than the native population, with a median of seven versus 13 years of education, respectively. However, this conceals a fair amount of variation: immigrants who entered on a temporary visa and then overstayed had higher levels of human capital than those who first entered illegally. As a result, immigrants from Latin America (who were largely illegal entrants) had much lower levels of education than those from the Eastern Hemisphere (the majority of whom were visa overstayers). In fact, this latter group had a median level of education that exceeded that of the US population in general. Furthermore, Borjas and Tienda (1993) found that over half of the unauthorized Asians who gained legal status under IRCA held white-collar jobs when they applied for regularization. English language competency was also low among the legalized population, with only 36 percent labeled "proficient."

Surveys also offer some indication that legalization spurred the formation of additional human capital in legalized immigrants. More than 12 percent of the legalized group reported making progress toward a high school-level or higher degree, 16 percent had studied in a trade school since legalization, and the share of those with 13 or more years of schooling increased from 12 to

traveled briefly and "innocently" outside of the United States.

15 percent. While it has not been conclusively established that it was legalization (rather than time in the United States) that was primarily responsible for these gains, a recent study found that legalized men reported receiving some form of skill enhancement training at rates exceeding historical levels for that group (Kossoudji and Cobb-Clark, 2000 and 2002). This could be due to the fact that legalization reduced barriers to obtaining education and training, but also because legalization appeared to increase returns to human capital for the male legalized immigrants studied. Specifically, wages increased by about 6 percent, on average, thus making such investments more worthwhile (Kossoudji and Cobb-Clark, 2002).

The evidence concerning the effectiveness of training received after legalization is nonetheless mixed. On one hand, the government's 1992 legalization survey found that over half of those surveyed who had pursued formal education or training since applying for legal status felt that it had increased their wages and opened up new job opportunities. Not all post-legalization education led to wage gains, however: the poorly funded language and civics courses that were a mandatory part of the legalization process, in particular, seemed to yield few results.

Studies by Kossoudji and Cobb-Clark (2000, 2002) give a more nuanced view of the differing rewards to human capital before and after legalization for a sample of primarily Mexican and Central American men. In their analysis, the sample's earnings at entry were almost independent of their human capital characteristics. After entry, however, earnings begin to diverge. Speaking English well and having attended school in the United States generate significant rewards. Conversely, being in the most poorly educated group generates a penalty. In other words, before legalization, workers are differentiated only at the extremes of the human capital spectrum. This could be because those immigrants with high levels of English competency and/or American schooling were less likely to be detected by authorities, and thus were "safe" for employers to promote, while the least skilled were obviously less "productive" and thus less well-compensated. Most of the workers, however, were lumped together between these two extremes.

Following legalization, however, the workers' performances became more differentiated and the correlation between human capital and wage rates rose. The earnings of workers with moderate English competencies rose relative to those with poor English skills (who saw their earnings suffer greatly). Similarly, workers of "average" educational attainment began to see real returns for each additional year of schooling.

A different study by Phillips and Massey, using surveys of migrants in Mexican towns, opens a slightly different window into the rewards to education. Their analysis confirms the value of speaking English well prior to legalization, and shows that even those of modest English ability

caught up after legalization. Unlike Kossoudji and Cobb-Clark's analysis, the unauthorized immigrants in the Phillips and Massey survey were rewarded for their education and experience prior to IRCA. However, after IRCA (which also made hiring an unauthorized worker illegal for the first time), returns to education decreased, especially for those immigrants who remained in an illegal status. At the same time, aspects of social capital—such as the ability to network with other migrants—became relatively more important for unauthorized migrants.

For European observers, the similarities between these two studies (and of others that frame them) may be more important than their differences. In particular, virtually all EU Member States already have employer sanctions provisions and thus more closely approximate the “post-IRCA” U.S. environment, where the Kossoudji-Cobb-Clark and Phillips-Massey studies are more aligned. Chief among these commonalities is the observation that legalization allows workers to be commensurately rewarded for their education and observable skills.

4.4 Sectoral and Occupational Mobility

In the late 1980's and 1990's, the workers legalized under IRCA moved into a more diverse array of economic activities. Yet, it cannot be conclusively said whether or not legalization accelerated this process. Legalized immigrants, for instance, left agriculture in droves and began to make inroads into manufacturing. This mobility trend mirrors those of unauthorized immigrants in general. In fact, as the numbers of unauthorized immigrants have grown over the past two decades, so have they spread throughout the U.S. economy.

When the immigrants legalized under IRCA first arrived in the United States, they participated in a relatively narrow span of economic activities: 34 percent found their first job in one of the five jobs mostly commonly occupied by unauthorized immigrants: farm worker, domestic worker, food preparer, janitor, or cook. Sixty-one percent were clustered in the next fifteen occupations most commonly occupied by unauthorized migrants, including laborers, gardeners, and nannies. By the time they applied for legalization, the proportion of legalized migrants working in the five most common and the next fifteen occupations had decreased to 23 and 46 percent, respectively. By 1992, these proportions fell further to 16 and 34 percent, indicating that legalized immigrants continued to move to a more diverse set of jobs. Further, employment in many of the better paid of the 20 most common occupations (such as hand packer, sewing machine operator, cook, and general machine operator) grew or stayed constant, meaning that not all of the occupational mobility observed was movement out of jobs traditionally taken by immigrants. Rather, much of the movement was from the less well-paid jobs toward better-paid ones—but still within the traditional job domain of unauthorized immigrants.

In their analysis of the post legalization survey data for Mexican men, Kossoudji and Cobb-Clark (2000) speculate that legalization may have been a sort of “union card” that enabled those legalized to move into more attractive occupations. For them, occupational mobility prior to legalization was primarily a “churn” through the same low-skill, low-wage occupations, with English language ability the factor most strongly correlated with occupational mobility. The post-legalization period, however, produced real upward mobility in the sample studied. (A study by Powers and Seltzer (1998), however, find signs of significant upward mobility prior to legalization.)

4.5 *Informal and Irregular Work*

As noted earlier, the employment of unauthorized immigrants in the United States has never been primarily irregular, although irregular employment has been and is part and parcel of unauthorized immigration. At the point of legalization, about 10 percent of the legalized population reported being paid less than the federal minimum wage (compared to about 2 percent for all U.S. workers) and 13 percent worked longer than the legal work week without receiving the required overtime compensation.⁴ A survey of Mexican migrants (who are among the groups most likely to be employed irregularly) conducted after IRCA found that 66 percent of unauthorized immigrants, 87 percent of those legalized under the law’s agricultural worker provisions, and 97 percent of those legalized under the law’s general provisions had paid taxes through payroll deductions—indicating that they were definitely working in the formal economy (Donato and Massey, 1993). This differential may indicate that legalization itself decreased the likelihood that an immigrant will work informally. It is also likely, however, that such high formal sector employment rates may be due to the fact that the legalized immigrants found better jobs as a result of their more extensive U.S. work experience.

Of course, different sectors have different rates of informal employment. For instance, the domestic services sectors have extremely high rates of informality: in the 1992 government survey (USDOL, 1996) of regularized immigrants, 44 percent of those employed in domestic work reported being paid less than the minimum wage at the time of legalization, and of those legalized immigrants who were working in domestic services in 1992, 12 percent reported being paid entirely in cash. Agriculture is a distant, but significant, second to domestic services in terms of irregular employment.

Employment in these “problem” sectors dropped for the IRCA legalized population, particularly in the years after regularization. For example, the proportion of legalized immigrants employed in private householder occupations dropped from 13 percent to 10 percent between legalization and 1992. However, as noted above, there is no clear indication as to whether this drop was a result of legalization or of the gradual upward movement of immigrants of all legal statuses in the labor market.

4.6 *Lessons from IRCA*

The analysis of IRCA’s legalization program yields few strong conclusions, but we can array the “lessons-learned” along a continuum of certainty. First, there is reasonably strong evidence that legalized immigrants earned more as a result of their new status, an indication that either their productivity improved and/or their work was rewarded more fairly. Second, most evidence suggests that the correlation between human capital characteristics and wages is stronger for legalized immigrants than for unauthorized ones, suggesting that legalization allows a more efficient allocation of human resources. In addition, there is some evidence that indicates that such increased returns, combined with the expanded access of the legalized to education and training, and greater certainty about their ability to stay in the United States, led immigrants to make human capital investments at higher rates following legalization.

However, there is also much that cannot be stated with confidence, or about which there is simply no reliable evidence. Unemployment and labor force participation rates among the legalized population seemed to be little affected by legalization, although signs are that, if legalization had an effect, it was a positive one. Similarly, although the sectoral distribution of legalized immigrant workers diversified substantially after legalization, we can only speculate that this diversification accelerated as a result of legalization. By the same token, there is no strong evidence that legalization decreased irregular employment. If legalization did have an effect on irregular employment, it probably did so by allowing legalized immigrants to move into better and more formal sector jobs, rather than by leading immigrants to demand that the informal sector job they may have held at the time of legalization be formalized.

⁴ The Fair Labor Standards Act that governs these matters does not apply to many agricultural and related occupations. Thus, not all of the workers reporting less-than-minimum wages or overtime without additional compensation are necessarily working informally.

5. Evidence and Examples from Europe

The IRCA regularization initiative provides a useful framework for discussing the effects of legalization programs more generally. Before one does so, however, it is important to point out again certain perhaps obvious characteristics of the program and its context which may or may not apply to other programs and national contexts. First, IRCA benefited from being carried out in an American economy that has a remarkable ability to put even its least-skilled workers to work in formal sector jobs. This observation holds even though the period in question included years in which the economy as a whole, and less-skilled workers in particular, experienced substantial difficulties. Second, the “formal” employment of unauthorized foreign workers was only moderately discouraged after the legalization program (in large part because the law’s employer sanctions provision never became rooted in U.S. political and enforcement culture) and was not hindered by public policy in any significant way at all prior to the legalization legislation.

In order to make the evidence drawn from IRCA more relevant to the European context, we draw on experiences from across Europe, as no single legalization program there provides a broad body of evidence. In doing so, we will focus particularly on points where European evidence contradicts, refines, or strongly reinforces the evidence drawn from IRCA and on issues about which the IRCA evidence is not particularly useful, such as unemployment and irregular employment.

5.1 *Employment and Workforce Participation*

Although IRCA appears to have done little to affect the employment and labor force participation rates of the immigrants who were legalized, these rates were already extremely high by world standards. Nearly four-fifths of IRCA legalized immigrants were employed at the time of application. This contrasts sharply with the 53 percent non-EU national employment rate for the EU 15 in 2002⁵ (Table 2). Overall, employment rates both for U.S. born and foreign born residents in the United States were also very high by EU standards, although such rates were less than those of the legalized population.

Not only are U.S. immigrant employment rates high relative to those of Europe, but employment rates for non-EU nationals/foreigners in most EU countries move in the opposite direction. Most

⁵ This comparison is intended only to make the general point, as these two figures do not control for differences in the age distributions of the two populations.

Table 2: Employment Characteristics, Selected Countries 2002

Country	Employment rate of (non-EU national) foreigners ¹	Employment rate of low-skilled residents ²	"Tax wedge" (income tax and social security contributions) for low earners, as percent of total labor cost ³	Unemployment rate difference (unemployment rate of foreigners less unemployment rate of nationals) ⁴
Belgium	30.7	40.8	47.5	6
Denmark	49.8	60.4	39.9	2.6
Germany	51.2	43.6	46.7	1.2
Greece	68.4	49.2	34.3	2.9
Spain	67.1	52.8	32.8	2.8
France	43.2	46.6	37.6	3.8
Ireland	58.2	48.1	16.7	0.5
Italy	-	45.3	41.3	3.3
Luxembourg	57.1	50.8	27.3	-
Netherlands	48.6	61.7	37.6	3.5
Austria	67.4	48.2	40.2	3.3
Portugal	76.1	67.3	29.6	1.5
Finland	54.4	48.9	39.5	6.5
Sweden	59.9	58.2	44.8	4
United Kingdom	57.3	50.9	18.3	1.5
EU-15 ⁵	52.6	49.4	35.6	2.9
United States	63.8	54.2	27.1	0.8

¹ Employment rates for EU countries are for population aged 15-64. US employment rates of foreigners are for all foreign born over the age of 16 who are not naturalized citizens, and include citizens of EU countries.

² Low-skilled refers to people with less than upper secondary degrees (for EU countries) and high school degrees or less (for US). US low-skilled employment rates are for people over 25.

³ Tax wedge reflects income tax plus employee contributions less cash benefits plus employer social security contributions for a single worker earning 67% of national average. This measurement of the tax wedge excludes certain other important non-wage costs of labor, such as payroll taxes, unemployment insurance, and the costs of complying with regulations.

⁴ Unemployment difference is the unemployment rates of all foreigners minus unemployment rate of all non-foreigners (definitions may vary by country). Italy unemployment difference figures compare foreigners and all residents, not nationals. (-) indicates data not available.

⁵ Averages for the EU-15 are population weighted for employment rates. For tax wedge and unemployment rate differences, they are averages of reported national rates and are not population-weighted.

Sources:

Employment rates of foreigners and low-skilled workers in EU countries: European Commission. (2003)

Employment in Europe 2003. Directorate-General for Employment and Social Affairs: Brussels

US foreign-born employment: US Census Bureau (2002) Current Population Survey, March

<http://www.census.gov/population/socdemo/foreign/ppl-162/tab01-07.pdf>.

US low-skilled employment: US Bureau of Labor Statistics, (2004) Current Population Survey, March

<ftp://ftp.bls.gov/pub/special.requests/lf/aat7.txt>.

Tax wedge: OECD, (2002) *Society at a Glance 2002*, OECD: Paris.

Unemployment difference for EU countries: European Commission. (2002) "EU Labour Force Survey", Eurostat, Luxembourg and (Italy only) OECD (2003) *Trends in International Migration: SOPEMI 2002*, OECD, Paris.

Unemployment difference for US: Bureau of Labor Statistics and Bureau of the Census (2002) Current Population Survey, March. <http://www.bls.census.gov/cps/cpsmain.htm>.

studies from Northern Europe indicate that non-EU nationals experience higher unemployment than EU nationals. This fact preoccupies policy makers greatly and has led to efforts to ensure that asylum seekers take work immediately and learn the local language quickly. (The Danes are the leaders in this regard. Jørgensen, 2002). One reason for the differential employment outcomes is that immigrants as a group tend to be more vulnerable to periods of high unemployment in large part due to their concentrations in sectors and occupations most affected by cyclical changes or competition from abroad (Statistics Norway, 2001; Dustmann, Fabbri, Preston and Wadsworth, 2003; EC, 2003, 1999; SOPEMI, various). Additional factors, such as low levels of skills, education, linguistic competence, and job tenure also affect immigrants disproportionately. (Those working without authorization or in the informal economy are even more vulnerable.) Various forms of discrimination also play a role. A 2003 study by the UK Home Office suggests that ethnicity affects both employment and labor force participation rates. Specifically, while the labor market performance of white immigrants was found to be similar to that of native-born whites, those of immigrants belonging to ethnic minorities are considerably lower—with females from Bangladesh and Pakistan being lowest (Dustmann, Fabbri, Preston and Wadsworth, 2003). Of course, the employment fate of immigrants is also tied to that of the larger labor market. For instance, the combination of good global economic trends and domestic labor market reforms reduced native unemployment in the Netherlands to 2% in 2000 and brought about a dramatic—if not fully proportional—decline in immigrant unemployment (SOPEMI, 2001).

Finally, variations in the sectoral distribution of employment and employment growth across countries also affect opportunities for the employment of unauthorized and legalized workers across OECD countries. The United States has a large personal services sector relative to many European countries, particularly when it comes to the domestic services and food service industries. One comparative study found that the differences in employment rates between the United States and Germany could be explained in large part by higher rates of service sector employment growth in the United States. For example, according to that study, Americans spend about 30 percent of their incomes on food; about half of that consumption is spent in restaurants. Germans, on the other hand, spend 25 percent of their income on food, but only 25 percent of that is spent in restaurants (Freeman and Schettkat, 2001). In both countries, these sectors employ high proportions of low-skilled workers in general, and immigrants in particular.⁶ One hypothesis to explain this is that relatively low non-wage labor costs lower the costs of services and give Americans higher returns to additional work encouraging them to work longer hours and spend more of their income on personal services (Freeman and Schettkat, 2001). However, this hypothesis must be tested along with many other possible explanations, including differences in

⁶ The sectoral concentration of low-wage workers varies. In the United States, low-wage workers are considerably more distributed across sectors than in Germany (European Commission, 2003).

tastes, educational attainment of the workforce, and the way occupations and sectors are classified and recorded in national statistics.

The role of legal status seems to be more complicated. In the U.S. and much of Southern Europe, unauthorized status does not appear to be a particularly significant obstacle to employment. The similarity, however, ends at that general statement. As shown, illegal status seems to be only a relatively small impediment to employment in the formal U.S. economy. For reasons already discussed, however, illegal status drives immigrants to the irregular employment market throughout Europe—while Southern European labor markets, where the underground economy is most robust, seem to be able to accommodate easily (some will say almost prefer) semi-skilled unauthorized workers. For instance, in Greece, Italy, Portugal and Spain, estimates of the employment rates of non-EU nationals typically exceeded both those of country nationals and EU citizens (EC, 2003).⁷ In Greece, in 1997, the year before the country's first regularization program, 64 percent of working-age non-EU nationals were employed versus 54 percent of working-age EU nationals and 55 percent of the general population (EC, 2003). The data on the employment rates of unauthorized, as opposed to authorized, immigrants in these countries are highly impressionistic, but show that in some cases, after a time lag, the unauthorized ones may be employed at comparable rates to those who are authorized (van der Leun, 2000).

This generally positive (but hardly complete) view of the employment situation⁸ of unauthorized immigrants in much of southern Europe does not mean that unauthorized immigrants have had an easy time meeting the employment requirements of the various legalization programs. In Italy, for example, it is estimated that 15 percent of those receiving legal status did so on the basis of fraudulent proof of employment (Ruspini, 2000). Fraud was also thought to have been a big factor in the U.S. legalization program, particularly in the agricultural sector. Conversely, in Greece and Italy, a large number of otherwise eligible immigrants are thought not to have applied for legalization because they could not demonstrate that they were employed, while in Spain and Greece, legalized immigrants either were denied work permits or dropped out of status when they lost their employment (Ruspini, 2000; Cavounidis, forthcoming). After Spain's 1991 regularization program, 50 percent of those regularized fell back into unauthorized status (Pérez, 2003). Formerly legal or legalized immigrants whose work permits were not renewed were a substantial portion of Spain's 1996 regularization, and accounted for about 7 percent – some 17,000 applications — of all applicants in its larger 2000 campaign. (SOPEMI, 1999 and 2001)

⁷ Employment rates are influenced by differences in age distribution, as well as other factors.

⁸ The reference here is to rates of employment, rather than its quality.

It would be incorrect to assume that all immigrants who cannot demonstrate that they are employed are, in fact, unemployed. Unauthorized workers are often employed in precarious, short-term or even in illegal activities, may be self-employed, may be working as day laborers, or, most frequently, they may find their employer unwilling to go “on the record”—and thus are unable to demonstrate their employment. The French government found this latter obstacle so formidable in the course of the 1981 legalization that it decided to accept third-party verifications of an applicant’s employment status and even legalized applicants who were dismissed by their employer for requesting legalization (French Ministry of Social Affairs and National Solidarity, 1984; Meissner, North, and Papademetriou, 1986). The United States’ IRCA program did likewise.

In northern European countries, where the irregular economy is not as large a factor as in southern Europe, there are two main obstacles to the employment of unauthorized immigrants. The first is regulatory in nature and concerns the prohibition of employing unauthorized immigrants—a prohibition that typically pushes that population to the underground labor market. The second is the generally poor employment situation of immigrants in general and of low-skilled workers in particular (see table 2). This latter obstacle means that for immigrants with few skills and/or poor language skills, work authorization alone may not be sufficient to secure employment, particularly in countries with a heavy tax burden on low-earning workers (the so-called “tax wedge,” see Table 2, column 3), high minimum wages, and/or rigid hiring and firing rules. These costs to the employer can knock out the bottom rungs of the employment ladder, preventing immigrants from acquiring crucial local work experience. When that is the case, only those immigrants who are legal and/or legalized and have the needed bundle of skills (a minority in most cases) are likely to find employment in the formal sector. The remainder will work in the underground economy and some of them will find “employment” in illegal activities. There are signs elsewhere that support this “missing rung” theory: in Sweden the mean earnings of employed immigrants from non-European countries are within 10 percent that of natives, but immigrants are employed at a rate 15 percent lower than natives. This ratio holds even after immigrants have been in Sweden for twenty years, suggesting that immigrants who manage to enter the labor market are qualified enough to earn well, but that those who do not remain un- and under-employed (Nekby, 2002). Of course, discrimination is also a factor.

Alternatively, legalization could reduce the employment rates of those benefiting from it, by introducing its beneficiaries to the social welfare state and, what many feel are its distortionary incentives. No research exists that directly addresses this concern, but the effect may be no more powerful for legalized immigrants than it is for legal immigrants and the general population (Papademetriou and O’Neil, forthcoming). Further, some legalization programs have given

legalized immigrants less-than-full access to social services and supports for an interim period. It is worth noting here that many of the factors targeted in the European Employment Strategy (such as the recommendation to “end unemployment, inactivity, and low pay inactivity traps by adjusting the balance between taxes and benefits” (European Commission, 2004, p. 10; Council of the European Union, 2003)) are exactly the policy levers which would improve the employment prospects of migrants (and reduce irregular employment) by reducing the costs of labor and strengthening work incentives. Thus, progress toward the Lisbon targets will make regularization programs more likely to have more positive labor market outcomes.

5.2 *Human Capital and Wages*

Among the more encouraging findings from IRCA was that it increased the correlation between a worker’s education and skills and his or her labor market success. There is in fact some European evidence to support the hypothesis that unauthorized status holds back even the most qualified immigrants. For example, a small survey of undocumented immigrants in the Netherlands found that better educated and skilled immigrants occupied menial positions even after a long tenure in the country (van der Leun, 2000). This contrasts sharply with the U.S. case, where time in the U.S. was one of the factors that most benefited immigrants both before and after legalization. The same survey, and others elsewhere, also support the observation from the U.S. case that immigrants without legal status lean heavily on their social networks, rather than their skills and education, to secure employment. In fact, everyone seems to have a personal anecdote about the doctor or engineer who drives a taxi or works as a mechanic. However, this also points to two related issues, neither of which can be fully resolved through regularization alone. First, that certain types of foreign degrees are deeply discounted—if not ignored—in the advanced industrial societies. Second, that licensing requirements keep many otherwise qualified foreigners from using their human capital fully after migration.

Thus, while the hypothesis that unauthorized migrants find it difficult to take full advantage of their human capital investments has considerable support, the hypothesis that legalization will enable them to do so has not been proven. Certainly, many unauthorized immigrants in Europe have high levels of education, although they are a small minority. In Greece’s most recent legalization, for example, 10 percent of those submitting a “green application” had tertiary education and 53 percent secondary education. Only 2 percent were illiterate (Cavounidis, forthcoming). In Italy, research had evidence suggests that undocumented immigrants tend to be young, most are highly or moderately educated, and for many, their job in Italy is worse than the one they held in their home country (Righi and Tronti, 1996; Ruspini, 2000).

Few researchers would dispute that unauthorized immigrants are a human capital resource. However, exactly how rich this resource is and whether and how directly legalization leads to the activation of this resource is unclear. The U.S. case is a less than perfect guide, and the European examples are inadequately studied or too recent to have been studied to the point of providing good evidence. By all indications, nonetheless, domestic labor market experience, language skills, and getting their foreign qualifications and/or work experience recognized (a formidable challenge, and an area where public policy can easily make a difference) are, along with regularization, prerequisites to activating this resource.

Along these lines, a temporary regularization is less likely than a permanent one to yield substantial rewards for all concerned in terms of “activating” the potential of immigrants, for two reasons. First, a short stay in the country gives those who become legalized little time to acquire country-specific work experience, a critical factor for all immigrant workers. Second, migrants (and their employers) are less likely to make the necessary investments (in terms of both expenses and forgone earnings/production) in training or education if the migrant’s time in the country as a legal worker is limited.

As in the United States, average wages for immigrants in Europe are also lower than those of natives. Evidence is limited, but a 1996 study in Greece shows that immigrants (both legal and unauthorized) earn less than natives performing similar work (Lianos, Sarris and Katseli, 1996). In the UK, ethnicity was again a significant indicator. A recent study there concluded that “[w]hile individuals from most white immigrant communities have on average higher wages than UK-born whites with the same characteristics, immigrants from all ethnic minority communities have lower wages.... Wage differentials are substantial, reaching about 40 percent for male Bangladeshis” (Dustmann, Fabbri, Preston and Wadsworth, 2003, p.7). Nonetheless, in all cases reviewed here, the wages of legal immigrants rose and the gap between immigrant and native wages decreased over time—although at varying rates and according to immigrant group characteristics. No direct evidence, however, shows the impact European regularization programs have had on immigrant wages over time.

5.3 *Irregular Employment*

Combating irregular employment ranks as one of the top reasons for regularization in the eyes of most policy makers in Europe. Although there is no conclusive evidence as to the size or rate of growth of the underground economy in most EU Member States, it is a great enough concern to have been part of the European Employment Strategy since 2001 (Renooy, et al., 2004; Council of the European Union, 2003; European Commission, 2004).

Although immigrant participation in the informal economy is difficult to track, research indicates that, in many instances, both legal and unauthorized immigrants may be participating in the informal economy disproportionately. In Italy, for example, immigrants are estimated to be twice as likely as natives to be working irregularly (Ruspini, 2000). Both because unauthorized immigrants tend to follow the same sectoral concentration as their legal counterparts and because they have fewer labor mobility options, illegal immigrants are even more concentrated in the informal economy than legal immigrants. Natives, nonetheless, continue to dominate the irregular economy's workforce. In fact, because of their small share in the overall workforce, immigrants, both legal and unauthorized ones, account for a small, if variable, proportion of those employed in the black economy (Tapinos, 2000).

Irregular employment is one of the areas where the IRCA experience may be not particularly useful for most of Europe. By one highly controversial estimate, the underground economy in the United States is much smaller than that of any EU Member State as a percentage of GDP (Schneider, 2003). The precise magnitude of the difference is not as important, however, as is the much more accepted wisdom, namely, that the irregular economy in the United States is comparable to that of the European states with the lowest level of irregular employment. The US's informal economy is therefore smaller in size than that in Germany (which has been estimated at around 6% of national production through surveys) and certainly smaller than that observed in the European countries with the highest level of irregular employment, such as Italy (Pedersen, 2003; OECD, 2004).

The sectors that are most plagued by irregular employment in the United States, chiefly domestic services, agriculture, and food service, are also marked by high rates of irregular employment in many European cases. However, in most of these countries, there is also extensive irregular employment by the general population and by unauthorized immigrants in the construction, cleaning, and hotel sectors. In contrast, in the U.S. case, these sectors are more likely to employ unauthorized immigrants above-ground (Matos, 1993; OECD, 2000; Baldwin-Edwards, 2001; Garson and Loizillon, 2003; Niessen and Schibel, 2003; Pedersen, 2003; Martiniello, 2004; OECD, 2004). Observations about the size of the firms that employ migrants also point to the same pattern. On both sides of the Atlantic, unauthorized immigrants are primarily found working in smaller firms or among the self-employed. Beyond that, there is variation. France's 1981 legalization effort revealed a surprising "bulge" of irregular migrants working in large firms. In Germany, on the other hand, employment of unauthorized immigrants is thought to decrease as firm size increases (French Ministry of Social Affairs and National Solidarity, 1984; Irlenkaeuser, 2000)—just as is (mostly) the case with the United States.

Notably, however, work authorization offers no guarantee that workers are working in the formal sector. These rates vary wildly across Europe. In France, foreign workers without work permits are a shrinking proportion of irregularly employed workers, accounting for less than an estimated 6 percent of that workforce in 1997 (Marie, 2000). During the 1980's, foreign workers were involved in about one-third of illegal work in Switzerland (Rohner, 2000). And as noted, in 1996, 50 percent of immigrants in Italy were employed in the informal economy; 70 percent of these workers had legal status (Ruspini, 2000).

In countries where the irregular economy is deeply-rooted enough to be seen as an almost "accepted" part of the mainstream, regularization has yielded mixed results. Immigrants, for instance, may choose not to regularize if they understand that they are likely to continue to find employment primarily in the irregular sector despite regularization. In some cases, the law itself creates incentives against regularization: Italian law punishes employers more severely for the irregular hiring of a legalized immigrant than for the irregular hiring of an unauthorized immigrant. In other cases, the probability of an employer being sanctioned for hiring an unauthorized immigrant is so low that an employer has no incentive to help their employee formalize the employment relationship, and may even end up with increased labor costs and a less docile workforce if (s)he does so (Ruspini, 2000; Reyneri, 2001).

These incentives, and the fact that irregular employment can remain an open and attractive (and sometimes, the only) option even after regularization, probably accounts for much of the failure in achieving high participation rates in legalization programs. These reasons may also help explain why many immigrants do not move into formal employment following regularization and, in legalizations dependent on continued formal sector employment, for the relapses into irregular employment and even unauthorized status.

The size and structural nature of the informal labor market also accounts, in part, for the pattern of repeated regularizations observed in southern Europe. In Italy, one-third of regularized immigrants were subsequently unable to renew their status because they could not show formal sector employment (Reyneri, 1999). In both Italy and Spain, immigrants who could have regularized in previous regularizations and either did not participate or subsequently lapsed out of regular status were major beneficiaries of subsequent regularizations (Garson, 2000).

The design and implementation of the legalization program itself also influences the participation rate and success of legalization programs. Programs that impose high costs on migrants while offering them uncertain or purely temporary status are less likely to inspire participation. In

Greece's two regularization programs, administrative and organisational deficiencies have meant that migrants were forced repeatedly to wait in exceptionally long queues, causing lost workdays and wages (Cavounidis, 2002; Cavounidis, 2003). In Spain, bureaucratic delays in delivering residency papers resulted in a significant number of legalized migrants lapsing back into illegal status. In Italy's 1996 regularization, the requirement that employers pay a fine for evading social contributions was, in effect, shifted by the employer to the migrant (Reyneri, 2001). This discouraged many immigrants from participating, although it also removed a disincentive for employers to cooperate.

Post-regularization incentives can also be perverse. In Italy, Spain and Greece, the increased costs of employing a worker formally made securing employer support for regularization an obstacle. As a result, many immigrants were simply unable to demonstrate that they were employed. The ability of immigrants to succeed in the formal sector after regularization also seems to vary by occupation and national origin. In Italy, for example, domestic work and caregiving are sectors that, although exhibiting a high incidence of informal employment, have received special attention in Italian immigration legislation because of the high demand for workers. Immigrants working in these sectors, as well as immigrants from nationalities with large and/or supportive co-national communities and from nationalities with high rates of business ownership, were all more likely to stay in the formal sector after regularization (Ambrosini and Zucchetti, 2002; Fasano and Zucchini 2002).

Despite these problems, there are signs that these legalization programs did yield movement into the formal sector and encouraged the occupational and sectoral mobility of immigrants. Ruspini (2000) reports a pattern whereby immigrants employed in agricultural work or as street vendors in southern Italy obtained legalization and then moved to take manufacturing or services jobs in the more vigorous economy of northern Italy. Where the requirement is that migrants provide proof of a job offer or employment in order to obtain legalization, the percentage of legalization applicants who are attached to the formal labor market is often higher than that for immigrants in general. This was observed particularly in Italy, where the influx of workers under the 1996 legalization program was associated with a 60 percent rise in the proportion of registered wage earners among all immigrants authorized to work—from 37 percent to 60 percent (Ruspini, 2000). However, the study only suggests that regularization may have acted to attach immigrants to the formal labor market. It does not report whether they remained in on-the-books jobs. In fact, as noted earlier, it is presumed that many later fell back into the informal economy.

Evidence such as this amounts to a generally positive, if less than convincing, view of the effects of legalization of unauthorized immigrants on formal sector employment in Europe. These positive

signs are also accompanied by disturbing indications of unintended effects: observers in Greece note that immigrants who are not regularized are driven further underground socially and in the workplace (Cavounidis, forthcoming).

6. Conclusion: Assessing Legalization as Labor Market Policy

A survey of the known labor market effects of legalization programs reveals positive, if perhaps disappointing, results. Certainly, legal status is a logical step toward greater labor market success and social integration. In Greece it is recognized as such by the immigrant, their employers, and the general public, while in Portugal in 2002, 80 percent of survey respondents were in favor of implementing a legalization program to benefit the undocumented (Kasimis, 2002; Lages and Policarpo, 2002). Yet, the evidence is meager and provides only spotty support for the beneficial labor market effects of legalization. As yet, issues of human rights and social justice, interests in greater social integration, law enforcement rationales, and the security imperative are the reasons most frequently cited in favor of conducting legalization programs. Better labor market outcomes seem to be still secondary policy rationales and, according to the evidence reviewed here, their benefits for Europe are still rather speculative.

This is in a first part, due to a paucity of evidence. The European experience with legalization programs has been inadequately studied, and even the two rather exhaustive surveys that followed IRCA lacked a true control group or a comparison frame. Furthermore, the survey only followed legalized immigrants for five years. Moreover, the American program was conducted in a loose regulatory environment in which, it can be argued, unauthorized status is not a major obstacle to labor market integration. As a result, even in the U.S., the labor market benefits of legalization may have been largely symbolic for most immigrants and may have only held for the limited period studied. The lack of evidence also means that we cannot evaluate the possibility that the effects of fuller participation in society (through easier access to education and the credit market, for example) led to labor market gains over the longer term.

Beyond the paucity of evidence, however, problems with legalization programs themselves may have also curtailed their positive effects. Disincentives to participation and rules that allowed or may even have encouraged immigrants to fall back into unauthorized status have limited the effectiveness of regularization. The choice of offering only temporary legalization in some countries, although defensible on other grounds, probably blunted the programs' labor market effects further.

The second reason for disappointment is the lack of any demonstrable differences in overall labor market outcomes between those countries that conducted legalization programs and those that

have not. Countries that have conducted legalizations cannot show either that their unauthorized population decreased over the longer term or that their irregular economies are any smaller than those of their neighbors who did not. Nor can the immigrants in the one set of countries demonstrate that they are substantially more productive, are employed at higher rates, or play less of a part in the irregular workforce than their neighbors'—at least in ways that are both measurable and can be attributed to legalization. In fact, in some cases, the opposite may be true, reflecting the fact that this is a somewhat invalid comparison: countries who have conducted legalization programs have done so in part because they felt that they faced more grave problems.

There is nonetheless a larger lesson that this comparison reveals: legalization does not, *ipso facto*, alter the fundamentals of a nation's social and economic framework. Legalization cannot change the incentives that lead large numbers of both immigrants and natives into the irregular market, nor can it take the place of enforcement of employment and other laws. And while it can indeed open the door to the formal employment market, this may have little meaning for low-skilled immigrants if structural factors are hostile to low-skill jobs and native and other (legal) immigrant workers, too, are out of work. For immigrants with better education, on the other hand, legalization is a first hurdle to gaining a more solid place in the job market but experience, language training, and recognition of their qualifications are also necessary.

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Table 1. Selected Immigrant Regularization Programs in Europe, 1973-present.

Country	Year	Number regularized	Primary policy target	Benefit granted	Note/Other conditions
Belgium	1974-1975	7.448	All foreigners	Permanent residence and work permit	All foreigners present in national territory were eligible
	1995-1999	6,137 ¹	Exceptional circumstances	Permanent residence and work permit	Applied to asylum seekers who had waited an unreasonably long time for a decision, people who could not obey an order to leave the territory due to circumstances beyond their control, those seriously ill, humanitarian cases, foreigners who were the victims of human trafficking, those who were in a long term with a Belgian or legal alien, and Bosnian displaced persons
	2000	60,000 ²	Exceptional circumstances	Permanent residence and work authorization	Applied to people who had developed long term social ties with the country and could claim humanitarian circumstances, had requested recognition of refugee status without having received a binding decision after a four-year period, those who could not, for reasons beyond their control, return either to the country or countries where they were normally resident prior to their arrival in Belgium, or to their country of origin, or to the countries whose nationality they hold, and to those who were seriously ill.
France	1973	40.000	Workers	Permanent residence and work authorization	
	1981-1982	121.100	Workers	Permanent residence and work authorization	Applied to those present in France before 1981 and holding steady employment
	1991	15.000	Rejected asylum seekers	Permanent residence and work authorization	Applied to those who had entered France before 1989

Table 1. Selected Immigrant Regularization Programs in Europe, 1973-present.

Country	Year	Number regularized	Primary policy target	Benefit granted	Note/Other conditions
France (cont)	1997-1998	77.800	Family reunification	Permanent residence and work authorization	Rejected family reunification and asylum applicants who entered before November 1997
Germany	1996	7,856 ²	Rejected asylum seekers	Permanent residence and work authorization	Applied to asylum seekers who had entered Germany before January 1990 and whose lives were centered around Germany
	1999	23.000	Rejected asylum seekers	Permanent residence and work authorization	Applied to families of asylum seekers who had at least one underage child and had been denied asylum for reasons they could not be held responsible for and who had entered Germany before 1 July 1993.
Greece	1997-1998	369,600 ³	Workers	6 month residence and work permit ("white card")	Required presence on Greek soil on or before November 28, 1997
	2001	351,000 ²	Workers	6 month residence and work permit	One year presence in the country and proof of employment
Italy	1987-1988	118.700	Workers	Residence and work permit	Extended to those employed, those looking for employment, students, and family reunification applicants
	1990	217.700	All foreigners	2 year renewable residence and work permit	Applied to those present before 31st December 1989.
	1996	147.900	Workers	2 year renewable residence and work permit	Extended to those employed, those looking for employment, students, and family reunification applicants
	1998-1999	350.000	Workers	2 year renewable residence and work permit	Applied to those present before March 27, 1998, who had housing and no criminal record and whose employers paid required taxes on the migrant's wages

Table 1. Selected Immigrant Regularization Programs in Europe, 1973-present.

Country	Year	Number regularized	Primary policy target	Benefit granted	Note/Other conditions
Italy (cont)	2002	704,000 ²	Caretakers and Dependent Workers	Residence and work permit	Applied to those registered before November 2002 whose employers paid \$300 in back pension contributions. Also applicable to other unauthorized workers who were registered beginning September 2002 and whose employers paid a \$1,000 penalty.
Luxembourg	2001	2.850	Workers	Residence and work authorization	Applicant had to prove presence in Luxembourg before July 1, 1998 or prove that he/she had worked legally since January 1, 2000. People from Kosovo were eligible if they arrived before January 1, 2000. People fulfilling these conditions were given 6 months to find a job.
Netherlands	1975	15.000	Workers	Permanent residence and work authorization	Applied to those who had entered the Netherlands prior to November 1, 1974 and held regular work
	1979	1.800	Workers	Permanent residence and work authorization	
	1991-1994	2.000	All foreigners	Permanent residence and work authorization	Case by case examination of applicants
Portugal	1992-1993	39.200	Workers	Residence and work permit	Applied to workers and those actively seeking employment
	1996	21.800	Workers	Residence and work permit	Applied to those who were from Portuguese-speaking countries and in Portugal before December 31, 1995
	2001	120.200	Workers	Residence and work permit	Applied to those who found jobs where employers paid taxes
Spain	1985-1986	43.800	All foreigners	Residence and work permit	Applied to unauthorized workers and residents
	1991	110.100	Workers	Residence and work permit	Applied to illegal aliens working in Spain since May 15, 1991, rejected asylum seekers or those with asylum requests pending

Table 1. Selected Immigrant Regularization Programs in Europe, 1973-present.

Country	Year	Number regularized	Primary policy target	Benefit granted	Note/Other conditions
Spain (cont)	1996	21.300	All foreigners (13,800 work permits and 7,500 residence)	One-year residence and work permit	Applied to those residing in Spain since January 1, 1996
	2000	163.900	All foreigners	One-year residence and work permit	Applied to those who had previously held or applied for either work or residence permits in the three years prior to 2000, or had filed an asylum application before 2000
	2001	216.400	Workers	One-year residence and work permit	Applied to those who could prove employment as well as social ties to Spain
United Kingdom	1974-1978	1.809	Commonwealth and Pakistani citizens	Permanent residence and work authorization	Applied to Commonwealth and Pakistani citizens residing illegally on British soil between March 9, 1968 and January 1, 1973
	1977	462	Commonwealth and Pakistani citizens	Permanent residence and work authorization	Applied to those eligible for previous regularization
	1998-1999	600 ⁴	Domestic workers	One year renewable residence and work permit	Proof of entry prior to July 3, 1998 and current occupation as domestic worker

¹ Figure refers to number of accepted applications. Each application could cover one or more people.

² Figure refers to number of applications received.

³ 225,000 applications were later submitted from those legalized for a 1-5 year residence and work permit ("green card")

⁴ Applications received as of September 20, 1998

Sources: SOPEMI (1999, 2000). Jan Niessen and Yongmi Schibel (2003), EU and US Approaches to the Management of Immigration: Comparative Perspectives, Migration Policy Group, Brussels, May. Joanna Apap, Philippe de Bruycker and Catherine Schmitter (2000), "Regularisation of Illegal Aliens in the European Union. Summary Report of a Comparative Study", *European Journal of Migration and Law*, 2(3/4). Dimitry Neuckens (2001), "Regularization Campaigns in Europe", Platform for International Cooperation on Undocumented Migrants (PICUM), Brussels, Belgium.