

**THE PRODUCTION AND CONSEQUENCES OF MIGRANT  
IRREGULARITY: SENEGALESE IN FRANCE, ITALY,  
AND SPAIN**

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**A DISSERTATION  
PRESENTED TO THE FACULTY  
OF PRINCETON UNIVERSITY  
IN CANDIDACY FOR THE DEGREE  
OF DOCTOR OF PHILOSOPHY**

**RECOMMENDED FOR ACCEPTANCE  
BY THE DEPARTMENT OF  
SOCIOLOGY**

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**November 2013**

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## **Abstract**

Irregular migration has become a politically controversial issue in most immigrant-receiving countries. Academic research has shown that states and their immigration policies actively create the legal conditions for the existence and perpetuation of irregular migration. Much of this literature, however, focuses on the United States and thus cannot examine how variation in contexts of reception may produce different configurations of legal status. In addition, much research on immigration has neglected migration from sub-Saharan Africa despite this region's demonstrated migration potential.

This dissertation uses a novel quantitative data source, the Migration between Africa and Europe (MAFE) study, to examine the production of irregular legal status among Senegalese migrants in France, Italy, and Spain and the consequences of configurations of irregularity. A historical chapter outlines the evolution of immigration policies in each country that set the parameters for irregular legal status.

The first empirical chapter studies the pathways into irregular status for Senegalese migrants. Pathways early in a migrant's trip—no-visa entry and overstaying—are more sensitive to both contextual variables and access to forms of capital, indicating that both state control and migrant agency shape these pathways. In contrast, befallen irregularity is less related to contextual variation, perhaps because immigration policies and enforcement resources are not focused on migrant integration.

The second empirical chapter examines how immigration policy creates gendered channels of access to labor markets. Senegalese women with configurations of legal status indicative of family reunification are more likely than women with other legal statuses to be economically inactive upon arrival, while there is little association between Senegalese men's legal status and their participation. I find, however, that family reunification does not preclude labor-market participation, as women with family-reunification profiles eventually transition into economic activity.

The third empirical chapter looks at the link between legal status and transnational activities. It finds that Senegalese migrants with irregular status are effectively confined to the destination territory, making them unable to visit the homeland. This confinement short circuits the entire social infrastructure underlying

remitting and investing: the affective ties that underlie long-distance cross-border activities wither when migrants are unable to circulate.

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## **Chapter 1. Introduction**

Irregular migration to Europe has attracted political outcry and media attention, with irregular flows from sub-Saharan Africa in particular provoking fears of an “invasion” of “fortress Europe” (de Haas 2008b). Despite this concern, irregular migration in Europe in general and irregularity among African migrants in particular are poorly understood phenomena. Although a voluminous research literature on undocumented migration exists in sociology, economics, and political science, the vast majority of studies are focused on the United States and are limited by reliance on a unitary context of reception and a simplified conceptualization of legal status (Portes 1978, 1979; Massey and Capoferro 2004; Massey and Singer 1995; Massey and Bartley 2006; Espenshade 1995; Bean, Edmonston, and Passel 1990). Most studies of African undocumented migration to Europe are either small-scale or speculative, leading researchers to call for more rigorous examination of this phenomenon (Lessault and Beauchemin 2009; de Haas 2008a).

This dissertation will examine how European contexts of reception produce irregularity among Senegalese migrants and how the resulting complex trajectories of legal statuses shape these migrants’ lives. While this research will investigate an understudied but increasingly important migration flow (Hatton and Williamson 2003), its relevance is not limited to understanding African migration. The findings will help inform policy debates surrounding this phenomenon in Europe and will refine sociological theories of irregular migration.

### **1.1 Contexts of reception**

Immigration and its economic, political, cultural, and social consequences have recently emerged as increasingly contentious issues in Europe. Although some European countries have long histories of welcoming immigrants, the relative cultural and ethnic homogeneity of many others has thrown recent increases in foreign-born populations into sharp relief. European anxiety over immigrant integration has also increased with the recognition that unauthorized immigration has been a persistent and intractable challenge for the continent’s immigration policies. Messina (2002) estimates Western Europe’s stock of irregular migrants to be upwards of four million people, while Papademetriou’s (2005) more recent

estimate places the figure at between seven and eight million. Estimates of annual inflows of irregular migrants are between 400,000 and 500,000 (Messina 2002).

These stocks and flows of irregular migrants have provoked reactive migration-management policies: between 1973 and 2008, European countries carried out 68 regularization programs, thereby adjusting the status of 4.3 million people (Kraler 2009). The majority (59%) of these regularization programs occurred between 1998 and 2008 (Kraler 2009). Although many European countries—both post-war labor importers (such as France) and more recent countries of immigration in Southern Europe (such as Italy and Spain)—have employed toleration of unauthorized residence and subsequent regularization of status as a *de facto* migration policy to meet the structural demand for immigrant labor (Kraler 2009), the frequency and visibility of regularizations have contributed to public and political perceptions of illegal immigration as a major issue.

Understanding undocumented migration is crucial for European societies, but most sociological insights on both the production and consequences of migrant illegality come from research on immigration to the United States. According to the literature on immigrant adaptation, “making it” in a destination country depends heavily on what Portes and Rumbaut (2006) call the “context of reception.” They define the most important aspects of context as the policies of the receiving government, the conditions of the host labor market, and the characteristics of the immigrant’s ethnic community and argue that these contexts can channel immigrants with similar individual endowments into different paths in the destination society.

Portes and Böröcz (1989) consider three ideal-typical illustrations of contexts of reception that may face different groups of migrants. A negative context of reception features low receptivity on the part of the destination society in terms of governmental attempts to reduce or prohibit inflows, employer discrimination in hiring for only menial jobs, and general societal prejudice; these negative stances lead to precarious settlement, blocked economic mobility, and an imperiled second generation (Portes and Rumbaut 2006, 2001). A neutral context of reception permits but does not encourage immigration and does not stereotype immigrants; migrants adapt to this neutral context through individualistic models of occupational and economic attainment. An advantaged context of reception features active legal and

material assistance from governments and a positive public perception, as has been the case for certain political refugees in the US; migrants are often able to combine this governmental support with pre-existing skills to adapt favorably to the destination society. These contexts of reception combine with the class origins of immigrants to create the diversity of settlement patterns or modes of incorporation apparent for contemporary immigrants (Portes and Böröcz 1989).

### ***1.1.1 Legal status as an axis of stratification***

Contexts of reception are thus crucial for explaining immigrant incorporation. While the legal, economic, and social elements of these contexts are interrelated, Portes and Böröcz (1989) point out that it can be useful to separate them for analytical purposes. Governmental and policy stances towards immigrants are of particular importance. An exclusionary stance from the government's policies can result in lack of legal status for immigrants and their children, which "forces immigrants into a wholly underground existence" (Portes and Rumbaut 2006:93). Indeed, a voluminous research literature has found that undocumented migrants and their children in the U.S. are at an economic and social disadvantage compared to documented migrants (Borjas and Tienda 1993; Phillips and Massey 1999; Kossoudji and Cobb-Clark 2000; Portes and Rumbaut 2001; Alba and Nee 2003).

Massey (2007) considers at length the role of immigration policy and border control in the system of social stratification in the United States. He argues that social stratification rests on the production of categorically different social groups: conceptual framings of in- and out-groups get translated into representations of these groups as social categories through boundary work. Institutional structures for exploitation—such as discrimination within markets—and opportunity hoarding—such as exclusion from markets and other resource-rich social settings—provide the mechanisms for those in power to translate the different social categories into unequal life chances across categories.

While race, class, and gender have been the traditional axes of stratification in the U.S., Massey (2007) identifies the immigration-control system as the principle institution of stratification for Latinos in general and for Mexicans in particular. He argues that Mexican migrants have, since the beginning of the 20<sup>th</sup> century, been exploited as a flexible and disposable workforce. Through 1965, immigration policy

alternately facilitated and restricted the insertion of Mexicans into the U.S. workforce based on economic cycles. With the repeal of the Bracero program in 1965 and the introduction of hemispheric quotas for entry visas, this system of recruiting temporary and flexible workers went underground, and undocumented border crossings increased; the previous circular system was maintained, however, and undocumented migrants did not experience wage discrimination compared to documented migrants.

The Immigration Control and Reform Act (IRCA) in 1986 and subsequent immigration-reform legislation in the 1990s rewrote the rules of the political economy, however, in ways that contributed to the reinforcement of the stigmatized social category of “undocumented.” IRCA induced discrimination against Mexicans on the basis of legal status, thus leading to declines in wages among undocumented migrants. This effect spilled over, however, from Mexicans to Latinos in general, who, by virtue of their social, cultural, and phenotypic characteristics, were increasingly associated with being “illegal.” Subsequent legislation made it more difficult for legal immigrants to access social services, leading to a bifurcation between immigrants who became naturalized citizens and both legal and undocumented migrants who did not.

Massey (2007) argues that this wage discrimination and marginalization from the social safety net led to a decrease in income and an increase in poverty among Latinos. In addition, IRCA increased funding for border enforcement in an attempt to stop undocumented entries. The effect of enforcement was not as intended, however: instead of deterring undocumented entry, repressive border control contributed to lowering the probability of return to Mexico among undocumented migrants, thus increasing the number of undocumented Mexicans living in the US. This rise in the exploitable population further contributed to the negative socioeconomic trends among Latinos. Immigration policy and border control thus created a social category of migrants devoid of regular legal status and the rights it affords.

Massey’s (2007) research shows that this category has become a prime vehicle for inequality in the U.S. by excluding undocumented migrants from effective participation in labor markets and other formal institutions that structure life chances. Other literature confirms that legal status has become an axis of stratification in the United States (Menjívar 2009). Psychological research using the stereotype content

model has found that undocumented migrants are seen as “barely human” at a neural level, confirming their disadvantaged position in the American stratification system (Lee and Fiske 2006; Massey 2007).

Greenman and Hall (2013) conclude that legal status is an important axis of stratification for Latinos’ educational attainment, with undocumented youth less likely to graduate from high school and enroll in college.

These findings are all the more important given Massey’s (2007) assertion that the American stratification system is increasingly class-based and functions through access to education. Marrow (2013) lists the myriad other ways in which immigrants’ life chances are adversely affected by the institution of illegality: undocumented migrants suffer disparities in access to health care and education, they are unable to get drivers’ licenses and are thus less geographically, economically, and socially mobile; in addition, spillover effects mean that many documented Latino immigrants are caught in the legal, social, and representational webs of illegality in ways that restrict their participation in American society.

### ***1.1.2 Limitations of existing research***

While this research provides important evidence that contexts of reception, and the legal statuses they define, matter for immigrant integration into host societies, studies focused solely on the United States are limited by reliance on a unitary context of reception. U.S.-focused research has argued that variation in context of reception can help explain resilient differences in integration outcomes among different migrant national-origin groups; but the group-specific contexts are all nested in one national political and socioeconomic context. Similarly, variations in policies—such as the amnesty resulting from the 1986 Immigration Reform and Control Act—are within an overall U.S. context that has a long history of engagement with immigration. Existing research has not sought to understand how *cross-national variations* in policies, labor markets, and communities can shape the production and consequences of migrant irregularity. In effect, existing research has sought to generalize from the U.S. case by using comparisons between multiple immigrant groups. While the contexts of reception facing these groups vary within the overall American context, additional insight could be gained by comparing multiple destinations. Theoretical insights derived from a unitary context of reception cannot readily explain migrant irregularity in a European setting marked by a diversity of contexts of reception.



Much of the research on undocumented migration in the U.S. is also limited by a simplified conceptualization of legal status. Most studies employ a simple dichotomization of legal status, comparing undocumented to documented migrants (or newly legalized migrants to legal migrants--see Borjas and Tienda 1993; Connor and Massey 2010). While this practice may have much to do with data limitations, scholars of immigration have also been calling for a more nuanced approach that is sensitive to transitions between multiple kinds of legal statuses (Massey and Capoferro 2004). The multitude of contexts of reception in Europe along with frequent recourse to regularization programs mean that migrants may experience multiple legal statuses simultaneously (e.g., legal residence without legal right to work) along with complex trajectories of legal status over time. A reliance on a documented/undocumented dichotomy may thus obscure both the factors producing various forms of irregularity and the consequences that complexities of legal status have for the lives of migrants.

## **1.2 Structure of the dissertation**

Advancing our understanding of irregular migration in Europe as well as in other settings thus depends on challenging the limitations of existing research paradigms. Existing theories built on a unitary context of reception and a simplified conceptualization of irregularity cannot satisfactorily explain irregular migration and its consequences in Europe. This dissertation will fill these gaps by asking how *multiple contexts of reception* produce pathways into irregular legal status and how the resulting *complex conceptualizations of irregular status* shape migrant economic integration into their host societies as well as their ongoing participation in the development of their sending societies. While this research is vital for understanding irregular migration in Europe, it will also help open new theoretical perspectives valuable for future research on irregular migration in other contexts, including the United States.

This dissertation will combine a review of historical immigration-policy texts with analysis of a unique quantitative dataset on Senegalese migrants in Europe to answer these questions. African migration, in general, and Senegalese migration in particular, offer unique opportunities to study the production and consequence of pathways into irregular legal status because of diversity in contexts of reception and exit.

Chapter 2 traces the evolution of immigration policies and the external and internal mechanisms of control that they define (Brochmann 1999) in the main Senegalese European destination countries of France, Italy, and Spain. I examine immigration laws and other legal texts (such as treaties, decrees, and administrative circulars) to outline how these states created the legal parameters that defined pathways to regular or irregular legal statuses for Senegalese migrants. I find that variations in contexts of reception have produced a variety of socio-legal configurations that have given rise to different pathways of irregularity. Senegalese in France had *de facto* regular status for much of the 1960s and 1970s in that they did not need explicit authorization to enter or reside in France and were able to take advantage of common post facto regularization procedures. Irregularity became more common among Senegalese in France as this preferential regime crumbled. Irregularity seems to have been a consistent component in contexts of reception in Italy and Spain, as their frequent and massive regularization programs demonstrate. Much of this irregularity seems to stem from the mismatch between restrictive immigration-control measures and structural demands for cheap, low-skilled labor.

In chapter 3, I study how immigration policies and mechanisms of immigration control are translated into pathways into irregular status. I model three such pathways: entry without a visa, overstaying, and befallen irregularity. I hypothesize that variation in context of reception—as measured by destination and period—would produce different pathways, and that migrants’ strategies, as measured by access to forms of capital and institutional connects, would also influence their navigation of these pathways. I find that pathways that occur early in a migrant’s trip—no-visa entry and overstaying—are more sensitive to both contextual variables and access to forms of capital, indicating that both state control and migrant agency shape these pathways. In contrast, befallen irregularity is less related to contextual variation, perhaps because immigration policies and enforcement resources are not focused on migrant integration. Furthermore, these transitions are rare and migrants who have “legal capital” in the form of regular status are able to avoid this transition.

In chapter 4, I study how immigration policy creates gendered channels of access to destination societies’ labor markets. I hypothesize that the effect of legal status on economic incorporation will differ for women and men. Women’s legal statuses are more likely to be the product of dependency-inducing family

reunification policies that disincentivize work, while men have more options for labor-market access regardless of legal status. Women's labor-market participation will thus be structured by their legal status, with those women reunifying with spouses at a destination less likely to work upon arrival than autonomous women or men. At the same time, female reunifiers may also have an easier time making eventual transitions into the labor market. I find that Senegalese women who have configurations of legal status indicative of family reunification are more likely than women with other legal statuses to be economically inactive upon arrival, while there is little association between Senegalese men's legal status and their participation. I also find, however, that family reunification does not preclude labor-market participation, as many of the women with family-reunification profiles eventually transition into economic activity.

Chapter 5 looks at the link between legal status and transnational activities. The literature on transnational activities has not sufficiently grappled with the role of physical mobility in the maintenance of affective ties that underlie non-mobile, long-distance transnational activities nor has it adequately examined the role of the state in constraining this geographical mobility. I thus hypothesize that the legal constraint of irregular status will both physically confine migrants to the destination territory, decreasing homeland visits, and will indirectly constrain other non-mobile transnational activities by reducing affective ties with origin communities through limited physical mobility. I find that Senegalese migrants who lack of secure legal status are effectively confined to the destination territory, making them unable to make short visits to the homeland. Lack of occasional visits as a result of this confinement short-circuits the entire social infrastructure underlying remitting and investing: the affective ties that underlie long-distance cross-border activities wither when migrants are unable to circulate. I also find an important difference between household-based activities—remitting and investing—and the communal activity of hometown association participation, with the former being more responsive to the territorial confinement produced by irregular status.

Chapter 6 concludes by reviewing the main findings of the dissertation and relating them to existing research. It then offers an assessment of the contributions this dissertation makes to theoretical building blocks in the study of irregular migration, immigrant economic incorporation, and immigrant

transnationalism. I consider the implications of the dissertation's results for the immigration policies pursued by both receiving and sending states and the possibility of cooperative agreements. The chapter concludes with a discussion of: directions for future research.

The remainder of this chapter presents a rationale for studying migration from sub-Saharan Africa, argues that Senegalese migration to Europe presents an important case to study, and outlines the data used in the dissertation.

### **1.3 Why study migration from sub-Saharan Africa?**

Migration within and from Africa provides unique challenges and opportunities, especially for the study of legal status. Human spatial mobility has always been a fundamental fact of life in sub-Saharan Africa (Adepoju 2004). Indeed, the human species originated there and spread across the globe via lateral expansion to new ecosystems. There is historical evidence of large-scale movement of Bantu-speaking people from western Africa to the southern and eastern parts of the continent, and the region is home to nomads, labor migrants, and refugees fleeing war and famines (Takyi and Konadu-Agyemang 2006).

Migrants from sub-Saharan Africa have also long been part of intercontinental population movements. Although the most well-known and infamous of these have been the forced migrations of the Atlantic and Arab slave trades, sub-Saharan African migrants have not been left out of the recent increase in international and intercontinental migration that has marked the second era of globalization. They can increasingly be found in most of the major cities of the United States and Western Europe, as well as some of the burgeoning economies of the global South. This increased visibility has led in many receiving countries to a "rising concern about a potential flood of African migrants bridging Europe's southern moat and washing under America's door" (Hatton and Williamson 2003:465). As with other migration flows (Massey, Durand, and Malone 2002), most citizens and policy makers in these countries think that the reasons for these movements are obvious: poverty and war are pushing Africans to leave their homes, and the migrants set their sights on high wages and welfare benefits of the "El Dorados" of the developed world. Despite this history of mobility and the recent visibility of sub-Saharan African migrants in the developed world, observers have noted that intercontinental emigration from sub-Saharan Africa has been fairly low.

Indeed, Hatton and Williamson (2005) ask, as the title of a chapter in their book on global migration, “Where are all the Africans?” They argue that the demographic and economic fundamentals of sub-Saharan Africa—especially the proportion of the population aged 15-29 and the relative wage gap with high-wage regions—are similar to those that drove the European mass migrations of the 19th and 20th centuries. The relative GDP gap between sub-Saharan Africa and Europe, for example, increased from 5.6 to 8.2 percent between 1973 and 1992. The start of the demographic transition has also produced a boom cohort of young, mobile Africans with limited prospects in these difficult economic conditions. Given such fundamentals, we would expect to see much higher levels of migration from sub-Saharan Africa towards high-wage economies than we do (Hatton and Williamson 2005).

One of the main constraints on this kind of international migration has been poverty: 46% of sub-Saharan Africans live on less than \$1 a day, making the financing of expensive international movement impossible for many (Hatton and Williamson 2005). Hatton and Williamson also point to the importance of the legal restrictions of immigration policy in limiting the magnitude of sub-Saharan migration to high-wage economies, which has led to a low rate of “spillover” from intra- to intercontinental mobility (Hatton and Williamson 2003). Restrictive immigration controls make it more difficult for potential migrants to reach desired destinations legally, directly leading to smaller stocks of sub-Saharan African migrants (Hatton and Williamson 2005).

These legal restrictions create an indirect damper on sub-Saharan migration through the throttling of migrant networks: the small size of the existing sub-Saharan African pioneer migrant stock overseas is a contributor to low rates of emigration (Hatton and Williamson 2005) through the limitation of the “friends and family” social infrastructure that often facilitates migration (Massey et al. 1998; Hatton and Williamson 2005). This is in marked contrast to the era of European mass migration, which was marked by in-existent or at least less-draconian immigration-control measures; the relative lack of control allowed a fuller expression of the demographic, economic, and social forces driving emigration. Thus, despite political and media outcry in Europe about an “African invasion,” research has shown that flows of sub-Saharan Africans are limited (Lessault and Beauchemin 2009) and lower than what economic and demographic fundamentals would suggest (Hatton and Williamson 2003).

There is, nonetheless, ample reason for researchers to pay attention to international migration from sub-Saharan Africa. While existing intercontinental emigration from the region is relatively low, research has shown that sub-Saharan Africa may be primed for its own age of mass migration. Hatton and Williamson (2003) regress African net out-migration on a variety of predictors and find that the log wage ratio and the share of population aged 15-29 are strong positive predictors of net emigration. They acknowledge that much of this emigration has been to intracontinental destinations, but perform a simulation with only demographic coefficients from their model to calculate a measure of emigration pressure that they use to project the “spillover” to intercontinental destinations. They estimate that rates of intercontinental emigration will vary between 1.25 and 2.40 per thousand between 2015 and 2025.

These rates are similar to those for European emigration during the 1870s, but still lower than for European mass migrations of the 1900s. Still, these rates lead to sizable overall numbers because of the large size of the base population: they estimate that these rates would imply 1.3 to 2.5 million intercontinental sub-Saharan emigrants per year. Taking the economic predictors from their model into account and assuming that African wages continue to lose ground to those in the OECD would imply additional migration pressure of 0.31 per thousand or 140,000 migrants per year (Hatton and Williamson 2003). Increases in productivity, on the other hand, might start to close the wage gap but would also start to release the poverty constraint on African emigration; increasing presence of sub-Saharan Africans overseas will also lower the poverty constraint through remittances and increase out-migration through the friends and family effect (Hatton and Williamson 2005).

Thus, sub-Saharan Africa seems poised to become the world’s next major migrant-sending region. Indeed, Hatton and Williamson argue that the region’s emigration potential may be even greater than that of Europe in the 19th and 20th centuries. While the latter region caught up economically to destination regions and experienced a demographic slowdown, the authors foresee no such dynamics in sub-Saharan Africa, where economies have fallen behind (despite more-recent growth) and demographic forces have sped up (Hatton and Williamson 2003). The region’s current population structure would also seem to favor continued mobility: the estimated population of sub-Saharan Africa in 2013 is 925,772,000, or approximately 13% of the world’s population, and is projected to reach 1 billion before 2025 (US Census Bureau 2013). The

region also has the world's highest total fertility rate by far at 5.1 (Population Reference Bureau 2012).

Thus, the pool of potential migrants in sub-Saharan Africa is large and growing.

Nonetheless, there are two possible brakes on this growth trajectory. The first is the high prevalence of HIV across the African continent: its continued spread would most likely decrease net out-migration by decreasing mobility through deteriorated health status and by negatively affecting economic well-being (Hatton and Williamson 2005). The second is the possibility of further tightening of immigration-control measures in high-wage countries, which lead to less “spillover” from emigration pressure (Hatton and Williamson 2003). Immigration policies and the external and internal controls they define thus play a large role in explaining why African out-migration is low compared to European mass migrations despite the similarity of economic and demographic forces and are a major unknown in the projection of future African migrations.

African migration is also of interest because of its diversity compared to the oft-studied migration flows within the Americas. Beauchemin (2012) argues that contemporary African migration is no longer driven solely by historical or colonial links, but is marked by a wide diversity of destinations even for migrants of the same national origin. This “diaspora model” of migration (Beauchemin 2012) presents new challenges and opportunities for studying how contexts of reception, including government policies and legal statuses, shape migrants' trajectories.

#### **1.4 Senegal as a strategic site for migration research**

Senegal, a country of almost 13 million people about the size of South Dakota on the Atlantic coast of West Africa (CIA 2012), has a long and diverse history of both intra- and inter-continental migration. Like other sub-Saharan African countries, much migration from Senegal has been directed towards other African countries, and Senegalese migrants can be found in most regions of Africa (Bredeloup 2007; Flahaux, Beauchemin, and Schoumaker 2010). Senegal has also played a particularly large part in the recent evolution of sub-Saharan migration flows to Europe. While recent population estimates indicate that the former French colony accounts for approximately 4.6% of the population of West Africa (U.S. Bureau of the Census 2012), Senegalese make up 18.1% of West African migrants in the main European receiving

countries (de Haas 2007). In addition to Senegalese migrants being disproportionately represented in Europe, Senegal stands out as a country that has diversified its migration destinations, with Senegalese increasingly present in Italy, Spain, and the United States as well as their traditional destination of France (de Haas 2007; Schoumaker et al. 2013). Senegal is now considered to be the source of one of the major “new African diasporas” (Koser 2003).

Senegalese migration to Europe offers an ideal opportunity to study the production and consequences of complex trajectories of irregularity in multiple contexts of reception. Unlike many migrant groups, Senegalese migrants do not face a unitary context of reception. Although many Senegalese migrants travel to African destinations, most increasingly choose high-income destinations in Europe and North America (Schoumaker et al. 2013). There are especially high concentrations of Senegalese migrants in France, Italy, and Spain. These three countries account for 45% of the international Senegalese community and about three quarters of the Senegalese spread across Western countries (Beauchemin and González-Ferrer 2011) and Senegalese constitute the largest group of sub-Saharan African migrants in each of these three countries (Mezger Kveder 2012). In addition to evolution of Senegalese migration towards new destinations, governmental policies, labor market conditions, and attitudes of the native-born towards immigrants in the main contexts of reception of Senegalese migrants have also varied over time. All three countries have histories of tolerating or even encouraging illegal immigration and subsequent regularization while also stigmatizing and racializing illegal entry, residence, and work.

Although detailed data on irregular migrants by nationality is rare, Senegalese are thought to have high rates of irregularity. The Senegalese Ministry for Senegalese Abroad estimates that there are two undocumented Senegalese migrants for every documented Senegalese migrant (Di Bartolomeo, Fakhoury, and Perrin 2010). Recent research finds that almost 30% of Senegalese migrants in Europe lacked a residence permit during their year of arrival in European destinations, with 16% in irregular status at the time of the survey (Schoumaker et al. 2013). Senegalese are estimated to account for 17% of the undocumented sub-Saharan migrants in Spain. They are the largest proportion of West Africans regularized in Italy, and are among the fastest-growing West African populations in France (de Haas 2008a). In addition, Willems (2008) estimates that half of the 33,000 sub-Saharan Africans who arrived in the Canary



Islands in 2006 were Senegalese, with many of the boats leaving from the Senegalese coast. Senegal has thus become a major sender of migrants to Europe and has become linked with the phenomenon of undocumented migration.

In addition to Senegal's prominence in both intra- and intercontinental migration flows, it is clear that emigration profoundly shapes the demography, economy, and culture of Senegal itself. Daffé (2008) reports that emigrants made up approximately 4% of the 2005 Senegalese population, compared to 2.1% for sub-Saharan Africa as a whole. The number of Senegalese emigrants increased by 1.8% per year between 2000 and 2005 and approximately one in ten Senegalese households counts at least one emigrant among its members (Daffé 2008). The economic impact of this migration flow is significant: official monetary remittances to Senegal rose to \$1.2 billion in 2008 from \$305 million in 2002 and currently stand at 10% of GDP (Cisse 2011). Senegal ranks fourth in sub-Saharan Africa in the absolute value of remittance flows, behind only demographic giants Nigeria, Kenya, and Sudan, while it ranks fourth in remittances as a percentage of GDP behind the much smaller countries of Lesotho, Togo, Cape Verde, and Guinea-Bissau (Cisse 2011). These flows of cash have reduced poverty in Senegal by 30% and have contributed positively to Senegal's macroeconomic accounting by equaling 40% of export earnings (Cisse 2011).

These demographic and economic impacts have emerged alongside what Massey et al. (1998) call a "culture of migration." A recent survey in urban areas of Senegal found that fully half of men and 25% of women intended to leave their country, with many respondents arguing that emigration constitutes a rite of passage for young Senegalese (Willems 2008). Indeed, Tall argues that "the emigrant is perceived by Senegalese as a model of success" (2008:37). This valorization of emigration takes place under the cloud of poor macroeconomic performance, declining real incomes, low human development, and high rates of poverty, all of which make emigration an attractive option for youth (Daffé 2008; Willems 2008).

While Senegalese emigrants were traditionally mostly of rural origin, Daffé (2008) reports the recent emergence of a significant flow from Senegal's cities: 59% of international migrants now come from urban zones. In contrast to the national average of 11% of households with migrants, a recent survey found that

almost 20% of households in the urban zones of Dakar and Touba had a member abroad and that 82% of these households received remittances (Daffé 2008). Tall (2008) argues that urban migrants have invested a large proportion of their foreign earnings in real estate, and that these visible (and occasionally ostentatious) signs of success have played a large role in creating the “culture of migration” that have increased emigration pressures in Senegal.

#### ***1.4.1 Geographic, social, and economic background of Senegal***

Senegal is situated at the westernmost point in Africa, and is bordered by Mauritania on the north, Mali on the east, Guinea-Bissau and Guinea on the south. It also encloses the territory of The Gambia, a former British colony (see Figure 1.1 for maps of Senegal’s geographic relationship to West Africa and Western Europe). Senegal’s ecosystems range from the border of the Sahara desert along the Senegal River in the north, to flat savannah in the center, to rolling woody hills in the southeast, to tropical forests in the southwest. Senegal comprises a number of administrative divisions, but migration research usually refers to a number of broader regional areas (Mezger Kveder 2012). The Senegalese capital of Dakar is located on the Cap Vert peninsula on the Atlantic coast between the mouths of the Senegal and Gambia Rivers. The four administrative divisions of this region contain roughly 25% of the country’s population (Mezger Kveder 2012), reflecting the capital’s historic role in attracting internal migrants. The Senegal River Valley—the main region sending migrants to France in the 1960s—forms the border between Senegal and Mauritania in the north, and Senegal and Mali in the East. The former French colonial city of St. Louis is located at the mouth of the river. The Peanut Basin contains the regions of Kaolack, Thiès, Fatick, Diourbel, and Louga, and is named for its primary agricultural activity. The city of Touba, the second-largest city in Senegal after Dakar and the site of investments of many Mouride migrants, is also located in the Peanut Basin. The Casamance is wedged in between The Gambia and Guinea-Bissau. Somewhat isolated from the rest of the country because of this peculiar geography, the Casamance has been the site of an ongoing, low-level separatist movement for decades. Although it is not usually mentioned in the migration literature, the regions of Tambacounda and Kédougou in the southeast contain some of the country’s most valuable natural resources, including forests (often exploited for charcoal) and mineral

resources. The region also harbors much of Senegal's biodiversity in the Niokolo-Koba national park and other community reserves.

Figure 1.1: Geographic position of Senegal in relationship to West Africa and Western Europe



Notes: Map data © 2013 Basaroft, Google, ORION-ME

Senegal is home to a number of ethnic groups. The Wolof/Lébou ethnic group makes up 45%<sup>1</sup> of Senegal's population and originates in the center of the country and the Dakar region. The Hal Pulaar ethnic group (also known as Pulaar or Peul in francophone countries, or Fula in anglophone countries) account for 25% of the population and are concentrated in the Senegal River valley; closely related groups of Pulaar can also be found in the southeast near the border with Guinea. The Hal Pulaar were traditionally nomadic cattle herders and can be found in countries across West Africa. The Serer make up 14% of the Senegalese population and live in the Sine-Saloum region between Dakar and The Gambia. The Soninké, while not a numerically important group, initiated Senegalese migration towards France from the Senegal River valley (Manchuelle 1997). Other ethnic groups include the Mandingue in the Casamance and the Bedik and

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<sup>1</sup> All population figures are based on the *Enquête Sénégalaise auprès des ménages II* (ESAM-II) and are cited from Mezger Kveder (2012).

Bassari in the southeast highlands. While all of these ethnic groups have their own languages and traditions and none constitutes an absolute demographic majority, Wolof has become the dominant lingua franca of Senegal, perhaps because of the primary role of Dakar where Wolof is commonly spoken.

Senegal is an overwhelmingly Muslim country, with 95% of the population professing adherence to Islam (Mezger Kveder 2012). There is, however, a wide diversity in actual practices, which are structured along the lines of Sufi brotherhoods (*confreries*). Although data on brotherhood membership are not collected, the two largest brotherhoods are the Mouride (*Aṭ-Ṭarīqat al-Murīdiyya*) and the Tidiane (*Al-Ṭarīqah al-Tijāniyyah*).

The Mouride brotherhood was founded by Cheikh Amadou Bamba Mbacké in the 19th century and considers the city of Touba its spiritual capital. The French colonial administration initially saw Bamba as a threat, like other Islamic leaders in Senegambia, and exiled him to Gabon; Bamba returned to Senegal, however, and the Mouride brotherhood became an important partner of the French in organizing peanut production (Cruise O'Brien 1971). The Mouride faith stresses the complete submission of the “*talibé*” to the religious leader, the possibility of salvation through hard work, and the importance of solidarity between members of the brotherhood (Cruise O'Brien 1971). While initially confined to the area around Touba, the Mouride brotherhood has steadily spread throughout Senegal and the brotherhood's long history in commercial activities along with its strong ethos of solidarity have made it a major institution structuring emigration from Senegal (Ebin 1992; Riccio 2004).

The Tidiane brotherhood is a Moroccan Sufi order that was brought to West Africa by El Hadj Oumar Tall, a Hal Pulaar from the Senegal River valley (Robinson 1985). This brotherhood is based in Tivaouane just north of Dakar, and also has many followers in Kaolack. Smaller Sufi brotherhoods in Senegal include the Layène, which includes mostly Lébou in Dakar, and the Khadre (*Qadiriyyah*), which is the smallest in Senegal but has the longest history and is present in many other countries in the Islamic world.

The Senegalese population has grown rapidly in recent years, increasing from three million in 1960 to 13 million in 2013 (Mezger Kveder 2012). Senegal currently has a rate of natural increase of 2.6% and a total fertility rate of 5.0, with 44% of its population under the age of 15 (Population Reference Bureau 2012).

Almost half (42%) of Senegalese live in urban areas. While Senegal is certainly among the world's poorest countries, it has registered some improvement: life expectancy at birth has increased from 39 years in 1960 to 58 years in 2011 (The World Bank 2013; Population Reference Bureau 2012) and it has shown consistent improvement in its Human Development Index (HDI) scores (Schoumaker et al. 2013). The Senegalese economy is dominated by the service sector (60%), with agriculture and industrial production each contributing 20% of GDP (The World Bank 2013). Peanuts and cotton constitute the main export crops, and Senegal has recently started to expand its extractive industries. Dakar has a thriving secondary sector, including services and construction, energy, and food processing; the capital is also known for its large informal economy (Fidler and Webster 1996).

#### ***1.4.2 Historical evolution of Senegalese migration patterns***

##### ***1.4.2.1 Colonial-era mobility***

Senegal, like many countries in sub-Saharan Africa, has a long history of contact with capitalist markets. The Atlantic slave trade forced Senegal into the nascent world economy and had devastating effects on the social, cultural, economic, political, and demographic organization of the region (Barry 1998). Global markets and capital started to penetrate Senegal in earnest during the late 19<sup>th</sup> century, after the European powers carved up the African continent. Amin (1995) argues that this partition allowed the colonizers to achieve the main capitalist goal of obtaining cheap export goods. He outlines the development of a system of colonial exploitation in various parts of the continent, including the extraction of raw materials (gold and diamond mining in South Africa, copper in Northern Rhodesia and Katanga ) and the production of tropical agricultural products (palm oil in the Gold Coast, cacao in the Ivory Coast, and groundnuts in Senegambia). A key component of these export systems' functioning was the creation and exploitation of labor from the "reserve" of indigenous Africans. Through strategic political alliances, the subordination of traditional commercial relationships, money taxation of agricultural products, and forced labor, these colonial systems created a proletarianized labor force. Traditional society was thus transformed, Amin argues, into a "purveyor of temporary or permanent migrants on a vast scale" (1995:33).

Findley et al. (1995) illustrate this colonial dynamic in Senegal. They argue that the colonial system disrupted the traditional agricultural system of the Senegal River valley by instituting a head tax that

induced peasants to work in the groundnut and cotton plantation system. Paying the monetary tax meant selling animals or portions of the harvest or traveling to the coastal colonial plantations in order to earn the money for the tax by selling labor. The French colonial regime also resorted to forced labor—the “*navetana*”—to assure a supply of labor on the groundnut plantations of the Sine-Saloum. The French colonial system in Senegal thus accomplished its goals of integrating the region into a monetized market economy and producing a surplus for export. The introduction of cash crops, the development of rail lines, and the investment in coastal cities all further eroded the pre-existing peasant modes of social and economic organization and contributed to a growing pool of potential emigrants.

Senegalese emigration to France began during the colonial period as a result of economic penetration and military conscription. An alternative to semi-coerced wage labor for the newly monetized and taxed colonial population was to volunteer for military service. During both World Wars, France successfully recruited additional military manpower from its colonies, and battalions of *tirailleurs sénégalais*<sup>2</sup> fought overseas in these conflicts. Following the wars, many soldiers from Senegal and other African territories enlisted in the French merchant marine and settled clandestinely in port cities such as Bordeaux, Toulon, Marseille, Le Havre, and Dunkerque (Manchuelle 1997). Although a boon for navigation companies looking for low-skill workers on boats and docks, the presence of these Africans incited public concern about security and public order (Fall 2005).

#### 1.4.2.2 *Post-independence migration*

Senegalese migration to France began in earnest following independence in 1960 as demand for unskilled foreign labor increased during the French economic boom of the 1950s and 1960s. France was one of the countries that turned to labor recruitment and importation to meet the challenges of post-war rebuilding in the context of labor shortages. Although the vast majority of imported laborers came from southern Europe, many also came from France’s African colonies. Employers recruited workers in the rural Senegal River valley to work in flexible and low-skill jobs in the auto, textile, and hotel industries (Fall 2005). A system called *noria* ensured that circularity was the norm: Senegalese workers stayed in France for a number of

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<sup>2</sup> This is a generic name for soldiers recruited from France’s African colonies, including Senegal.

years before returning home to send a family member to take their places (Tall 2008). Most migrants were primarily interested not in settling in France but in sending funds to their families in Senegal (Fall 2005). This voluntary separation from the host society found its residential complement in the *foyers de travailleurs migrants*, lodging provided by employers or municipalities that ensured that migrants were kept in close proximity to each other but separated from French society.

During the post-war period—known in France as *les trente glorieuses*—irregularity among immigrants was widespread. From the end of World War II to the 1970s, illegal immigration was the *de facto* migration policy advocated by the French government. It was easy to enter the country without a job and subsequently find a work contract. Laubenthal (2007) estimates that, at the end of the 1960s, 80% of foreign workers were directly recruited by companies and entered France without a residence permit, to be regularized later by the government. Even entering the country without documents during the post-war period was subject only to the payment of a fee leading to regularization (Fall 2005). It is reasonable to assume that many Senegalese migrants experienced spells of irregularity during this period given the tolerance and even encouragement of unauthorized entry by both the state and employers.

While France was a major post-independence destination, Senegalese also migrated to other African countries during this period. Côte d'Ivoire and Ghana were popular destinations because of booming economies based on tropical products (coffee and cocoa), and the Congo attracted Senegalese migrants for the diamond trade (Bredeloup 2007; Mezger Kveder 2012). At the same time, Senegal was actually a net receiver of immigrants. Political exiles from Guinea and Guinea-Bissau sought out Senegal's political stability in the 1960s and 1970s, and Senegal's peanut industry continued to attract seasonal migrants (Lefebvre 2003).

#### 1.4.2.3 *Economic crisis, the closing of France's borders, and new destinations*

The oil crisis in 1973 and high structural unemployment in France effectively put an end to its practice of labor importation and marked a turn towards increased concern over illegal immigration. Indeed, French immigration control policy from the 1970s to the present has been instrumental in creating illegal migrants through its restriction of categories of legal entry. Immigration has continued via legal entry for purposes of

family reunification, tourism, and education. Many of those admitted legally, however, have experienced spells of illegality as a result of work or residence not conforming to their entry status (Fall 2005). Even in the context of this strict immigration policy, then, irregularities of legal status have been a reality for migrants, and the French state has responded with six regularization programs since 1973 (Kraler 2009). Senegalese migration to France evolved as a result of these changes to French immigration policy. Restrictions on labor immigration encouraged settlement among formerly mobile Senegalese, and leading some single male migrants to bring wives and children via family reunification (although Beauchemin, Caarls, and Mazzucato 2013 suggest that Senegalese have been quite reluctant to reunify in Europe). Qualitative studies have also found visa overstaying among Senegalese to be prevalent since 1974 (Tall 2008).

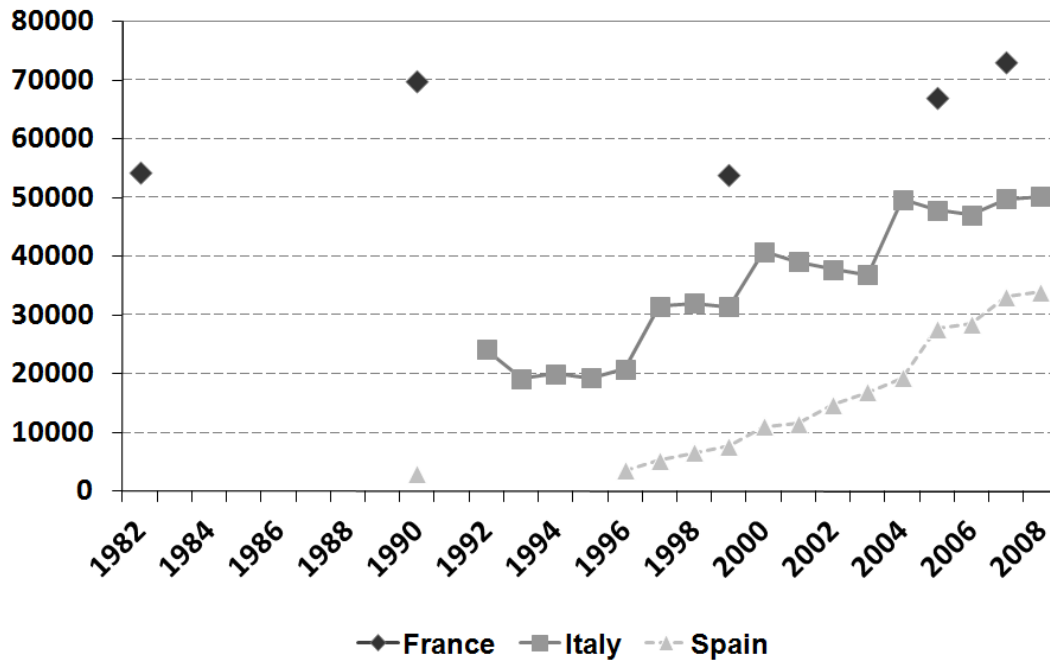
The economic situation in Senegal also declined starting in the 1960s. A major drought started in 1969 while the world market for peanuts collapsed after the end of French price support; and the 1973 oil crisis combined with high population growth to reduce Senegal's economic prospects (Mezger Kveder 2012). Senegal agreed to implement a series of structural adjustment programs (SAPs) in the 1980s and 1990s, which aggravated urban poverty and produced unsatisfactory macroeconomic outcomes (Mezger Kveder 2012). The Senegalese currency, the CFA franc, was devalued in 1994. Although this move restored some competitiveness to the Senegalese economy and improved monetary measures of poverty, survey results suggest that the majority of Senegalese perceived their economic well-being to have stagnated or deteriorated in the late 1990s (Mezger Kveder 2012). During this mostly negative economic evolution, Senegal became a net exporter of migrants.

The closing of the French border in the 1970s, high French unemployment, and the restructuring of French industries in the 1980s thus conspired with long-term economic decline in Senegal to lead Senegalese migrants to seek out new destinations in Southern Europe (Riccio 2008; Schoumaker et al. 2013). Senegalese migrants also responded to the demand for inexpensive and flexible workers in the secondary and informal labor markets as well as the relative ease of residential integration into Italy and Spain (Pascual de Sans, Cardelús, and Solana Solana 2000; Fall 2005). These new destinations also attracted migrants from different social origins than earlier waves of labor migrants to France. Instead of originating



in the rural Senegal River valley, migrants to Italy and Spain have tended to come from the predominantly Wolof zones of western Senegal and its urban areas (Schoumaker et al. 2013). In addition, the social networks that amplified this movement were embedded in religious affiliations, with the Senegalese Mouride Islamic brotherhood providing spiritual motivation and material support to its adherents in the new destinations (Babou 2002; Ebin 1992). Figure 1.2 shows the increasing importance of these new destinations: while stocks of Senegalese in France remain higher than those in Southern Europe, the number of Senegalese resident in Italy and Spain has grown dramatically since the 1990s (Mezger Kveder 2012).

Figure 1.2: Senegalese migrant stocks in France, Italy, and Spain



Reproduced from Mezger Kveder (2012). Sources: United Nations Global Migration Database (UNGMD): France 1982, 1990; Spain 1990; Institut National de la Statistique et des Etudes Economiques: France 1999, 2005, 2007; Istat: Italy 1992-2008; Ministerio de Trabajo e Inmigración a partir de datos suministrados por Ministerio del Interior: Spain 1996-2008.

Migration flows in general to Italy and Spain were rare prior to the 1970s, and neither country had effective immigration policies before the mid-1980s (Laubenthal 2007; Pascual de Sans et al. 2000). The accumulation of a large stock of illegal immigrants prior to these policies also necessitated a series of

legalization programs, and each country has embarked on six regularization efforts since 1985 (Kraler 2009). There is some speculation that regularization programs in both countries actually attracted the first Senegalese migrants to these new destinations (Kaag 2008; Fall 2005; Tall 2008). These programs have undoubtedly had an impact on Senegalese migrants and migration patterns: a full 55% of all foreigners legalized in Spain's 1991-1992 program were from Africa (Pascual de Sans et al. 2000), and Senegalese are among the most numerous participants in Italy's regularization programs (de Haas 2008a)<sup>3</sup>. Despite granting legal status, many of these regularization programs required renewal every few years, often leaving Senegalese migrants' legal status precarious and temporary.

### **1.5 The Migration between Africa and Europe (MAFE) project**

This section discusses the main data source for the dissertation, the Migration between Africa and Europe (MAFE) project<sup>4</sup>. The first section describes the rationale for the project. The second section discusses the design of the survey and the sampling procedures. The third section presents the MAFE questionnaire. The fourth section presents the advantages of the data, and the final section discusses the data's limitations.

The MAFE project arose to fill a long-running gap in the availability of quantitative data on African migration (Beauchemin 2012). In general, the study of migration in many regions of the world has often been hampered by a lack of high-quality data. This is partly due to the myriad difficulties in studying migration, especially when compared to other demographic processes: while birth and death can only take place once for each person and in one place, migration can take place multiple times and, by definition, involves a change in geographic location. While a number of high-profile data-collection efforts have

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<sup>3</sup> Sub-Saharan Africans were also overrepresented in France's recent regularization programs (Lessault and Beauchemin 2009)

<sup>4</sup> The MAFE project is coordinated by INED (C. Beauchemin) and is formed additionally by the Université catholique de Louvain (B. Schoumaker), Maastricht University (V. Mazzucato), the Université Cheikh Anta Diop (P. Sakho), the Université de Kinshasa (J. Mangalu), the University of Ghana (P. Quartey), the Universitat Pompeu Fabra (P. Baizan), the Consejo Superior de Investigaciones Científicas (A. González-Ferrer), the Forum Internazionale ed Europeo di Ricerche sull'Immigrazione (E. Castagnone), and the University of Sussex (R. Black). The MAFE project received funding from the European Community's Seventh Framework Programme under grant agreement 217206. The MAFE-Senegal survey was conducted with the financial support of INED, the Agence Nationale de la Recherche (France), the Région Ile de France and the FSP programme 'International Migrations, territorial reorganizations and development of the countries of the South'. For more details, see: <http://www.mafeproject.com/>

emerged during recent decades to start to fill the migration-data gap, most of these projects have focused on migration systems centered on the United States. The Mexican Migration Project (MMP) and the Latin American Migration Project (LAMP) have pioneered innovative multi-sited data collection techniques and have served as the basis of many of the studies that have defined the contours of our current knowledge on migration processes. Nonetheless, the dearth of individual-level, longitudinal data on African migration has been decried by scholars (Lucas 2006; Beauchemin 2012) and has remained an obstacle to scholarship: it has generally not been possible to test hypotheses developed in the U.S. migration system in an Afro-European context.

This lack of data has important repercussions for the study of legal status. Immigration-policy making and the elaboration of both external and internal immigration controls have rested on dramatic images of death-defying migration attempts or sensationalized portrayals of the living conditions of irregular migrants instead of solid scientific evidence on causes and consequences of African migration flows. These often-unfounded images have provided fodder for political debates on migration that have led to increasingly restrictive immigration policies across Europe (Düvell 2011). It is widely acknowledged that immigration-control systems are out of sync with the realities of irregular migration. While control focuses on repressive border enforcement, the vast majority of irregular migrants—including irregular African migrants—are thought to enter Europe as tourists and subsequently overstay their visas (Schoumaker et al. 2013). Only reliable and comparative data on African migration can inform scholarly and policy debates on the scope and scale of forms of irregularity among African migrants.

The MAFE project aspired to collect comparative and representative data on sub-Saharan African migration using a multi-sited data collection methodology, with an emphasis on migration systems (Kritz, Lim, and Zlotnik 1992) linking Africa and Europe in which people, culture, money, and ideas circulate transnationally. The project, in its methodology and scientific objectives, recognized the increasingly complex trajectories of African migrants and thus emphasized that migration is not a unidirectional event (hence the choice of the preposition “between” in the project’s name). Its innovative focus thus explicitly allows for the study of circulation, return migration, and transnational practices.

The project chose to focus on three discrete sub-systems of the Afro-European migration system, focused on the African countries of Senegal, Ghana, and the Democratic Republic of the Congo (DRC). These countries represent three of the four largest populations of sub-Saharan Africans in Europe, thus making them numerically important populations to study (Beauchemin 2012). The countries were also chosen because of the variation they offer: they have different colonial backgrounds and thus different traditional migration destinations and their economic, ecological, and political conditions differ.

The project selected multiple European destinations for each of these African hubs, including the former colonial power and one or more new destinations. For Senegal, France is the former colonial power and Italy and Spain are new destinations; for Ghana, Great Britain is the traditional destination and the Netherlands is the new destination; and for the DRC, Belgium is the former colonial power and Great Britain the new destination. This choice of destinations allows for the examination of changing patterns of migration over time and also creates the variation in contexts of exit and reception necessary for comparative studies (Beauchemin 2012). As this dissertation uses only the data from the Senegalese sub-sample, further discussions of the MAFE project will be limited to the Senegalese case.

### ***1.5.1 Sampling design of the MAFE project***

One of the major goals of the MAFE project was to produce representative socio-demographic data for both the sub-Saharan African origin countries and the European destination countries. The MAFE project thus employed a multi-site design, collecting data on both current migrants in European countries and non-migrants and returned migrants in the country of origin. This design overcomes the limitations of surveys only at origin, such as reliance on proxy respondents, or only at destination, such as the exclusion of non-migrants or returned migrants and thus avoids sample-selection problems that plague much research on migration (Beauchemin 2012).

#### ***1.5.1.1 The Senegalese sample***

The MAFE sample in Senegal was drawn from the region of Dakar, the Senegalese capital city, and its administrative departments of Dakar, Pikine, Guediawaye, and Rufisque. Approximately 25% of Senegal's population lives in this region, and it accounted for more than a quarter of all of the country's international

emigration departures in the five years prior to 2002 (Mezger Kveder 2012). The project, which collected its data in 2008, employed a three-stage probabilistic sampling design to construct a sample of households within the region, oversampling those households with migration experience and using the 2002 population census as a sampling frame to select primary sampling units. Census districts served as the primary sampling units, and were divided into ten strata of equal size based on migration prevalence. Six census districts were randomly selected from each stratum, and the project then enumerated households within each selected district and divided them into migrant and non-migrant strata. The project then randomly selected 11 households from each stratum in each district, or 1,320 total households, for participation in the survey. Of the selected households, 1,141 completed a household questionnaire (87%), with an 11% refusal rate.

The household questionnaire generated a list of household members, defined as individuals who had lived for at least six months in the household at the time of the survey or plan on living there for at least six months. This list of household members served as a sampling frame for the individual survey and the project randomly selected at most two returned migrants, two spouses of migrants, and one non-migrant per household for participation. Individuals had to meet the following criteria in order to participate: (1) be between 25 and 75 years old; (2) have been born in Senegal; and (3) currently hold or in the past have held Senegalese citizenship. A total of 1,338 individuals were selected and the project completed 1,062 interviews. The majority of non-response was due to lack of ability to locate the individual after repeated attempts. The Senegalese sample as thus constructed is representative of households and individuals in the Dakar region.

#### *1.5.1.2 The European samples*

The main challenge in collecting data on migrants in a destination is the lack of a suitable sampling frame. Migrants, especially those who lack regular legal status, may not be systematically recorded in population registers that, if they are even available, could otherwise serve as sampling frames. Migrants also tend to be a hard-to-reach population (Mezger Kveder 2012). The MAFE project thus used a variety of methods to construct a sample of Senegalese migrants as representative as possible of the population of Senegalese living in each destination country. The main tool in France and Italy was the quota method: using auxiliary

data about the population of Senegalese in each destination country, the project set quotas for the number of respondents by different characteristics, including gender, age, region of residence, and socioeconomic status (Beauchemin 2012). The project also varied the recruitment methods (via Senegalese associations and snowballing techniques) and places (metro stations, hairdressers' shops, and public places were common) so that the selection biases of each method would cancel each other out.

In Spain, however, the MAFE project had the advantage of a sampling frame in the *Padrón Municipal*. Inclusion in this municipal population register gives migrants—even those with irregular status—access to a variety of benefits, meaning that most foreigners are on the list. In addition, the project attempted to contact migrants in Europe using information collected from households in Senegal. This matched sampling strategy met with only limited success, however, and thus accounts for a small proportion of migrants interviewed in Europe (Beauchemin and González-Ferrer 2011). In all three European countries, sampling was limited to selected regions that incorporated between 64% and 75% of all Senegalese migrants living in the countries. Individuals were eligible for participation if they met the criteria described above for participation in the individual survey; in addition, in an attempt to exclude migrants of the 1.5 generation, individuals had to have migrated to Europe for the first time at age 18 or later. The project successfully collected about 200 interviews each in France, Italy, and Spain. The MAFE project team computed a variety of weights for use in accounting for sampling design (Schoumaker and Mezger 2013).

### *1.5.2 MAFE Questionnaires<sup>5</sup>*

The MAFE project administered a household questionnaire to the head of each selected household in Dakar and a biographic questionnaire to each individual selected to participate in the study either in Senegal or in Europe. The household head responded to questions for all individuals currently living in the household, and also on all other children of the household head not physically living in the household, as well as current migrants who were related to the head, the head's spouse, or the spouse of a household member. The proxy data thus collected for each individual included education, occupation, religion, ethnicity, and past and current migrations (including destination and years of departure and return), and links with current

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<sup>5</sup> All MAFE questionnaires are available at <http://mafeproject.site.ined.fr/fr/methodo/methodo/>

migrants. The questionnaire also collected household-level data on housing characteristics and ownership of durable assets.

The biographic questionnaire was administered to individuals in all project countries. Its goal was to permit the reconstruction of the respondent's life history in multiple domains in a coherent fashion. The questionnaire thus consisted of two data-collection tools: (1) a biographical event grid or life-history calendar tied to the age of the respondent and the corresponding calendar year in which the interviewer recorded the respondent's life events; and (2) a questionnaire with both a set of open questions that helped to fill in the basic structure of the calendar and a variety of modules with structured questions. The biographic questionnaire collected a wide array of information on each respondent. Traditional life-history data included family history (relationships and children), residential history (places of residence of a year or more), education, occupation, and asset ownership; these modules were applicable to migrants and non-migrants alike. Family events were recorded early in the interview as they are usually the easiest to recall; this personal history thus then provides a temporal "backbone" that can aid recall for the rest of the questionnaire.

In keeping with the survey's focus on migration, the questionnaire also included a number of modules about migration events and experiences, including migration attempts; long and short stays outside of Senegal; long and short return trips to Senegal; migration experience of friends and relatives; citizenship history; asylum claims; work and residence permits; money transfers; and participation in migrant associations. All modules asked the respondent to indicate dates for events, allowing the transcription of information into the life-history calendar at annual intervals.

### 1.5.3 Advantages of the MAFE data

This dissertation will use the data collected by the MAFE biographic questionnaires<sup>6</sup>. These data have a number of advantages for the study of the determinants and consequences of legal statuses of current and former Senegalese migrants in Europe

#### 1.5.3.1 Inclusion of regular and irregular migrants

First of all, the sampling design purposefully includes both regular and irregular migrants. The *Padrón* in Spain offered the opportunity to include both documented and undocumented Senegalese migrants in the sample, and the project also made effort in France and Italy to include undocumented migrants in the sample in order to avoid the biases that excluding this population would bring about (Beauchemin 2012). Descriptive statistics in Table 1.1 indicate that the project was successful in including this traditionally hard-to-reach population: across the three European countries, almost 18% of the respondents lacked a residence permit at the time of the survey, while almost 60% had lacked this authorization at some point in the past. The percentages vary by country, with a higher proportion of currently undocumented migrants in the Spanish and Italian samples than in the French sample.

Table 1.1: Percentage of Senegalese migrants without a residence permit at selected time points, MAFE-Senegal

Country	Time of survey	Ever
France	10.54	32.84
Italy	19.40	67.66
Spain	24.76	74.27
Total	18.26	58.39

Source: MAFE-Senegal. Notes: Unweighted percentages of respondents declaring that they did not hold a residence permit

#### 1.5.3.2 Longitudinal measurement of legal status

In addition to making efforts to include migrants with irregular experience in the sample, the MAFE project also included a module in the biographic questionnaire that allowed for the collection of longitudinal,

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<sup>6</sup> I have also used the household data for a study of relative deprivation and emigration from urban Senegal (Vickstrom 2013).



comparable data on legal statuses. Figure 1.3 displays the questions<sup>7</sup> the interviewer used to elicit information about legal statuses over time from the respondent. Starting with the first period of residence outside of Senegal, the interviewer asked that respondent to indicate the combination of visa, residence permits, and work permits that the individual had upon arrival. The interviewer recorded this information, including any combinations of permits specified by the individual, in the life-history calendar (see Figure 1.4 for an example) at the year corresponding the migrant's arrival in the destination. The interviewer then asked if the individual's situation with regard to both residence and work authorizations changed during the first period of residence outside of Senegal and recorded any changes in the life-history calendar. The interviewer repeated this cycle of questions for each period of residence outside of Senegal. The MAFE data thus include data on Senegalese migrants' legal statuses in the domains of entry, residence, and work for each year of residence in each of the foreign countries in which they lived.

Figure 1.3: MAFE-Senegal Biographic Questionnaire Module on Legal Statuses

**RESIDENCE AND WORK PERMITS**  
(FOR ALL STAYS OUTSIDE SENEGAL THAT LASTED MORE THAN A YEAR)

COLUMNS 11 AND 12

EXPLAIN: Opportunities for living or working in a country may depend on the type of document you have. Therefore I would like to retrace together with you the different types of documents and residence permits that you may have had or not when you left Senegal and while you lived abroad. Could we try to retrace this together? The questions concern all countries where you lived. If some countries don't require any residence permits, don't hesitate to let me know.

- **1st PERIOD OF LIFE OUTSIDE SENEGAL**
  - **1st status: RESIDENCE PERMITS (column 11)**

When you arrived in "Name of the country", did you :

    - "NNRP" - Not Need any Residence Permit in this country
    - "V" - have a Visa
    - "RP" - have a Residence Permit (permit of stay, residence permit, refugee status...)
    - "NP" - Not have a permit
    - Other - Specify

*GRID: Note NNRP, V, RP, NP or Other (and specify) at start year  
NB: in the start year, Ego may have a simple visa, then obtain another form of permit (NNRP, RP, NP, Other) Note: V + RP*
  - **2nd status: And then? Did your situation change?**

*GRID: Draw an arrow to the new situation and note the new status at the year of change. Explore all status changes over this period.*
  - **1st status: WORK PERMITS (column 12)**

And with regard to the sphere of work: when you arrived in "name of the country" did you:

    - "NNWP" - Not need any work permit (you had the right to work without ever requesting a legal authorisation)
    - "WP" - have a work permit (you had a permit allowing you to work in whatever company, in whatever type of occupation)
    - "SWP" - a selective work permit, on request or limited to a specific activity (for every new employment you had to request and obtain a new permit)
    - "NWP" - No work permit (in principle, you didn't have the right to work in this country)
    - Other - Specify

*GRID: Note NNWP, WP, SWP, NWP, Other (and specify) at the start year.*
  - **2nd status: And then? Did your situation change?**
- **2nd PERIOD OF LIFE OUTSIDE SENEGAL. CONTINUE in this way for each period outside Senegal!**

<sup>7</sup> The English-language version of these questions appeared in the Ghana biographic survey, adapted here for Senegal for the convenience of Anglophone readers. The questions in the Senegal biographic survey were identical and were posed in French, Italian, or Spanish.

These kinds of longitudinal data on legal statuses are both rare and important. Very few data sources on migrants in Europe include information on legal status, either because the data are pulled from population registers that include only legal migrants or because the sampling scheme includes potentially undocumented migrants but the questionnaire does not ask about legal status (Amuedo-Dorantes, Malo, and Muñoz-Bullón 2013). Given the debate about undocumented migrants in both the US and in Europe (Massey et al. 2002; Düvell 2011), however, collecting data on legal status is incredibly important. Migration scholars have started calling for longitudinal data on legal statuses in particular, which are necessary to answer questions about transitions over time between various legal statuses (Massey and Capoferro 2004; Donato and Armenta 2011) and combinations between different kinds of authorizations. Time-varying indicators of legal statuses are also necessary as predictor variables of time-varying outcomes, such as employment and remitting, that may be linked to entry, residence, and work authorization. The MAFE-Senegal data provide such longitudinal data on a rich array of variables measuring legal statuses.

Figure 1.4: Extract of MAFE life-history calendar

ANNEES	1. AGES	2. HISTORIQUE FAMILIAL		3. HISTORIQUE DES LOGEMENTS		1. AGES
		2.1 UNIONS	2.2 ENFANTS	Ce logement se situe dans quels :		
				3.1 VILLE OU VILLAGE?	3.2 PAYS?	
2009						
2008						
2007						
2006						
2005						
2004						
2003						
2002						
2001						
2000						

Source : MAFE

### 1.5.3.3 Comparability of legal statuses

The data on legal statuses collected by the MAFE project are also comparable both across countries and over time. While MAFE ensured basic comparability by using the same carefully translated questionnaire in all survey locations, the multi-sited survey design combined with a retrospective questionnaire required a deeper level of conceptual comparability. Concepts measured by the questionnaire had to be

understandable and relevant in multiple contexts over different geographic locations, time periods, languages, and personal histories. As Beauchemin (2012) points out, some concepts lent themselves easily to this kind of comparability, either because they are universal or because standard solutions exist (such as the International Standard Classification of Occupations or ISCO, which MAFE used to code occupations). Measuring legal statuses was a case in which contextual specificities required the invention of a standardized framework.

Each country has its own set of laws regulating the entry, residence, and work of foreigners, and the authorizations are rarely comparable. The alphabet soup of visas for entering and residing in the United States, for example, does not have an exact analog in Europe. Even European countries differ greatly in their external and internal mechanisms of immigration control (Brochmann and Hammar 1999) despite the attempts of the European Union to impose harmonization. Indeed, immigration-policy making is a fiercely guarded realm of national sovereignty in Europe. Laws and regulations defining legal statuses can also vary over time within the same country, thus making comparability over time difficult and complicating retrospective data collection (Beauchemin 2012).

The MAFE project thus adopted a flexible strategy to capture all of the legal situations of Senegalese migrants at all times and places: the project assumed that visas, residence permits, and work permits were the basic mechanisms of immigration control to which migrants are subject. The questionnaire did not differentiate between different kinds of visas, residence, or work permits that may be specific to a time period or destination. By asking about visas, residence, and work permits separately and encouraging migrants to list all authorizations and changes in authorizations, the questionnaire was as exhaustive and comprehensive as possible. In addition, migrants had the possibility of answering that they did not need a permit, reflecting the complicated evolution of immigration-control legislation vis-à-vis Senegalese in France.

#### *1.5.4 Limitations of the MAFE data*

While the MAFE project has generated rich, longitudinal, multi-sited and comparable data that can be used to study the determinants and consequences of the legal-status trajectories of Senegalese migrants in Europe, the data also have a number of limitations stemming from compromises in the survey design.

##### *1.5.4.1 Sample size*

Because of cost considerations, the inherent difficulty in sampling a hard-to-reach population, and the lack of availability of a sampling frame, the MAFE project set a goal of interviewing 200 Senegalese migrants in each of the three destination countries (Beauchemin 2012). The sample is of a reasonable size when pooled, especially if non-migrants interviewed in Senegal are included in the analysis, which would give a sample size of 1,668 individuals and almost 70,000 person-years. The relatively small sample sizes in each country, however, limit the ability to conduct destination-specific analyses.

##### *1.5.4.2 Recall bias*

The second compromise was the retrospective nature of the data collection, which leads to the potential limitation of recall bias. Collecting longitudinal and time-specific information on migration-related events that would allow analyses of determinants of migration was an important objective for the project, and a retrospective design was more cost-effective than a prospective panel for doing so (Beauchemin 2012). In addition, the retrospective survey could ensure a representative sample at the time of the data collection, while a panel survey loses representativeness through attrition over time (Mezger Kveder 2012).

Nonetheless, retrospective data collection does open the door to the possibility of recall bias in the reporting of past events. Respondents had an average age of 40 years at the time of data collection, meaning that there was likely a considerable effort involved in remembering life histories.

Mezger Kveder (2012) argues that this effort can result in measurement error through the misreporting of the timing of events or the complete omission of events. Research has shown that this recall bias depends, in part, on the kind of event being recalled. Respondents tend to remember rare events readily because of their relative salience (Eisenhower, Mathiowetz, and Morganstein 2004), which means that events like births and marriages should be subject to less recall bias (Poulain, Riandey, and Firdion 1992). Residential

histories tend to present more difficulty in recall especially if the exact timing is of interest (Poulain et al. 1992), but respondents seem to have less difficulty in accurately reporting migration events, especially if the move is long-distance (Smith and Thomas 2003). Recall bias in other areas seems to be more problematic: unemployment spells, for example, tend to be underreported, even in shorter reference intervals (Horvath 1982; Manzoni, Luijkx, and Muffels 2011).

In addition to these substantive variations in recall bias, research has shown that time since the event seems to have a non-linear relationship to recall accuracy, with a deterioration in recall stabilizing over time (Mayer 2007); overall age also seems to be associated with decreased recall accuracy (Haaga 1988). The MAFE project sought to limit recall biases by using salient events—such as birth or marriage—to anchor the life history calendar and encouraged respondents to think about event timing in relation to these anchor events (Beauchemin 2012). The interviewers also had an array of dated local, national, and world events that could also serve as recall anchors.

The effect of recall bias on the reporting and measurement of legal statuses has not been examined, most likely because there is no source of prospective data on legal statuses to compare with retrospective sources. The main concern is that reporting of legal status may be prone to measurement error through misreporting of timing or omission of changes in legal status. The existing research on recall bias suggests, though, that legal status might be a domain where there is little recall bias. Given the widespread knowledge throughout Senegal of the external immigration controls in the form of visa requirements of most European countries (Willems 2008), it is reasonable to assume that legal status upon entry would be a salient feature that migrants would recall with accuracy.

The same could be said of the first residence and work authorizations, which are linked in time to the year of arrival at a given destination. Recall may become more difficult for some subsequent changes in legal status. Transitions from regular to irregular states via the expiration of a permit for which the migrant does not need to take concrete action may be associated with fuzzier recall. Renewals of permits or acquisition of regular status, on the other hand, are likely to be salient events if only because of the bureaucratic paperwork often involved in these processes (Spire 2005). In addition, the MAFE data show transitions

between different legal statuses once in a destination to be somewhat rare: the average Senegalese migrant reports 1.73 legal-status spells, or 0.73 transitions; more than half never experience a change in legal status. Thus, most migrants do not face great challenges in their recall of their legal statuses, which are also most likely salient.

#### *1.5.4.3 Time resolution*

The third compromise stemming from the survey design was the choice of retrospective time resolution. The project decided on yearly intervals for recording events as a way to both simplify data collection and limit response burden (Beauchemin 2012). While this produces life histories of adequate length for analysis, the time interval may obscure events and changes of state that happen during that year. The questionnaire allows for some recording of multiple events at the same time, but does not necessarily allow for the recording of the precise ordering of events. Even if only one event of interest happened during the year, the time resolution does not allow the establishment of temporal precedence vis-à-vis other events that occurred in the same year. These issues may be particularly relevant for legal statuses, as migrants may experience multiple status transitions in a given year, especially if they have short-term permits. Thus, the survey may conceal some instability in migrants' legal trajectories (Beauchemin 2012). The time resolution issue also affects other variables under study in this dissertation: migrants may engage in transnational activities, such as remitting, multiple times during a year; migrants may also experience multiple spells of employment and unemployment during the same year.

#### *1.5.4.4 Standardization of heterogeneous legal statuses*

The fourth compromise arising from the design of the survey was the necessary standardization of questionnaire items, including those asking about legal status. While this standardization is an advantage in that it allows comparison across time and between countries, it also creates a gap between the data collected and the legal reality in each time period and destination. For example, residence and work permits are often differentiated by length of validity and conditions for renewal, distinctions which often correspond to “temporary” and “permanent” permits with different connotations for the stability and longevity of residence. Spire (2005) argues that these kinds of distinctions were used to create a hierarchy of more- and less-desirable immigrants in France. The former were granted permanent residence with long

periods of authorization and few occupational or geographic restrictions, while the latter obtained only short, precarious authorizations. Italy and Spain have also recently introduced longer-term “permanent” residence permits (see chapter 2), access to which is often difficult and dependent on continuous prior regular status.

There is thus clearly important heterogeneity even within the category of “regular” migrants: those with temporary authorizations are more precarious than those with permanent authorizations. The MAFE project only collected standardized data on the possession of residence and work permits, and did not allow for the differentiation of different kinds of permits. The survey recorded the length of different spells of authorization, so some indication of the precarity of statuses is possible, but there is no straightforward way to match spell length with different kinds of authorization. As a result, there is a degree of unobserved heterogeneity that is unavoidable.

In addition to the lack of information about the kind of entry, residence, and work authorizations, the study’s standardized approach did not permit the collection of information about the mechanisms by which migrants acquired or lost their legal statuses. Senegalese migrants may have entered the destination country on a tourist, work, or family-reunification visa, and residence and work permits may have come from regularization programs or marriage. While auxiliary data on the timing of other life or national events could help construct indicators of different types of mechanisms of access to regular statuses, the lack of direct observation of these mechanisms is a limitation. Standardization also limited the ability to collect data on more convoluted legal arrangements, such common Senegalese strategy of using false documents (either counterfeit or belonging to someone else) (Spire 2005).

#### *1.5.4.5 The murkiness of legal status*

Finally there are some potential sources of bias in data on legal statuses that stem not so much from the design of the MAFE survey as from the very nature of legal statuses themselves. Immigration policies and the mechanisms of control they define are complex and multifaceted, and the bureaucracies that administer them are equally complex. Given this complexity, it is not surprising that immigration lawyers do a brisk business advising clients on the intricacies of immigration law. It is possible that migrants may not fully

understand the details of their past and/or current legal statuses. While the standardization of the legal-status instruments in the MAFE survey may help overcome this issue, it is still possible that there is some misreporting of legal status due to simple misunderstanding.

For example, Senegalese migrants in France in the 1960s needed neither a visa for legal entry nor a residence permit for legal residence, but technically needed a work permit and a contract for work-related migration; many Senegalese thus entered and resided legally without any authorization and subsequently found work and were often regularized post facto. A migrant recalling this situation might declare not needing a visa or a residence permit but not having a work permit (and then having one); s/he could also declare not having any form of authorization or, on the contrary, having all of the forms of authorization. There is thus probably some degree of a gap between legal statuses as they exist in the law and legal statuses as they exist in migrants' comprehension of them.

Bias could also arise from migrants underreporting irregular status because of the fear of deportation if the data were revealed to public authorities. The MAFE project made great efforts to assure respondents of the confidentiality of their personal data, though, and the prevalence of migrants who reported current or past irregular status (see Table 1.1) indicates that this fear did not prevent reporting of irregularity. In any event, even if underreporting occurred, the estimates in this dissertation could then be considered conservative lower bounds.

Despite these limitations, most assessments of the MAFE project's approach (Beauchemin 2012; Mezger Kveder 2012; Toma 2012; Center for Global Development 2009) conclude that it is furnished a unique dataset which takes a big step towards filling the gap in the availability of quantitative data on African migration. Not only is it, like other migration datasets, certainly "better than nothing" (Beauchemin 2012:36), but it offers information on a rich array of topics that permit investigation of a large number of questions in migration research. The data are especially valuable for studying legal statuses, the contexts of reception that produce them, and the impacts that they have on Senegalese migrants' lives.



## **Chapter 2. Evolution of immigration-control policies in France, Italy, and Spain**

### **2.1 Policy evolution in multiple contexts of reception**

Senegalese migrants present an interesting and useful case to study because they are present in many different contexts of reception. Senegalese migrants have long traveled to destinations within Africa, including neighboring countries such as the Gambia and Guinea and more-distant destinations such as Angola, the Democratic Republic of the Congo, and South Africa (Bredeloup 1993). While France was the main destination of Senegalese intercontinental emigration during most of the 20th century, Senegalese migrants have since diversified their mobility to include many countries in Europe, North America, and Asia. Indeed, most Senegalese who travel abroad can recount stories of meeting other Senegalese in the markets of Nairobi, the cafés of Paris, the New York subway, or the temples of Bangkok.

This dissertation takes advantage of part of this diversity of destinations to examine how variation in the socio-legal features of different contexts of reception creates complex trajectories of legal status for this intrepid group of migrants, and will link different forms of legal status to the migrants' integration in the destination society and their ongoing participation in the development of their origin communities. While many different destinations could have been considered, this dissertation and the data-collection project on which it is based chose to focus on France, Italy, and Spain. These three countries account for approximately 45% of all Senegalese migrants residing abroad (Beauchemin and González-Ferrer 2011). While they are all developed countries in the European Union, their historical relationship with Senegal, the evolution of their immigration-control policies, their experiences in receiving immigrants, and their economies vary in ways that create different configurations of legal status and possibilities of irregularity.

France is of obvious interest as the former colonial power in Senegal. Research has shown that links of language, transportation, and economic exchange forged during colonial times underlie many migration systems across the world (Kritz, Lim, and Zlotnik 1992), and the migration patterns between Senegal and France are no exception to this rule (Garson 1992). No understanding of Senegalese migration would be complete without an accounting of Senegalese migration to France. In addition, the colonial relationship

had important implications for the socio-legal parameters structuring the legal statuses of Senegalese migrants in France in the post-independence period. During the colonial period, Senegalese born in the so-called *quatre communes* of St. Louis, Gorée, Rufisque, and Dakar had a form of French citizenship, which Senegalese deputies to the French Assembly in the early 20th century sought to reinforce via military service during the two World Wars; this “blood debt” later served as a pillar in the fight for secure legal status for Senegalese *sans papiers* in France (Coquery-Vidrovitch 2001; Mann 2003).

The colonial relationship also directly structured post-independence immigration-control measures in France. The former colonial power sought to defend the vestiges of colonial privileges of free entry and establishment in Senegal for its own citizens, and thus created a preferential bilateral immigration-control regime with Senegal that facilitated the entry and eventual settlement of Senegalese in France. This preferential regime was largely at odds with the ordinance of 1945 that sought to recruit immigrants from culturally similar southern European countries for economic and demographic purposes (Spire 2005), which nonetheless established the framework for a restrictive immigration-control regime. While French policymakers immediately and constantly chipped away at the preferential regime between France and Senegal, it officially lasted until the early 21st century, and the evolution towards a closed and restrictive regime more in line with national immigration law was instrumental in encouraging both the settlement of formerly-mobile Senegalese migrants and their families in France and the exploration of new destinations such as Italy, Spain, Greece, and the United States.

The new destinations of Italy and Spain provide important counterpoints to the experience of Senegalese migration to France. Both Italy and Spain have long histories as countries of emigration; indeed, both provided many migrants to France in the post-World War II period. In contrast, their experience receiving immigrants is much more recent. While France has been a country of immigration (in demographic if not cultural terms) since the late 19th century, Spain and Italy only started receiving migrants in the 1990s. As a result, Spanish and Italian apparatuses of immigration control are much more recent. Neither had any national-level immigration policy with the normative status of legislation until the 1990s, and the impetus for this legislation came from the European Union integration instead of any overriding internal concern

with immigration (indeed, both countries still had low levels of immigration at the time of their respective laws) (Sciortino 1999; González-Enríquez 2009).

Immigration-control policies in both southern European countries have since developed in a restrictive fashion, marked by an overriding concern with border control along Mediterranean coastlines. Indeed, these countries have reputations for being the clandestine port of entry for migrants from less-developed neighboring countries such as Morocco and Tunisia, and these North African countries have themselves transformed into transit points for migrants from sub-Saharan African countries (including Senegal) (de Haas 2007). Italy and Spain thus have a different history of immigration-control policies than France and face different immigration-control challenges than their northern neighbor.

In addition, these two new destinations do not have any meaningful historical links with Senegal. Neither country had any colonial enterprises in Senegal or anywhere in West Africa, nor do they share cultural or linguistic links with Senegal. Unlike many other European countries of immigration, they also did not engage in post-war labor recruitment in former colonies. Thus, few of the theories of the determinants of migration can explain the establishment of these two countries as destinations of Senegalese migrants. Why did the first Senegalese pioneers decide to go to these unknown destinations? Research suggests that Senegalese migration to southern European countries started as a result of the confluence of immigration-control policies in the traditional and new destinations (Kaag 2008; Fall 2005; Tall 2008a). France was tightening the preferential bilateral regime with Senegal in the 1980s and 1990s at the same time that Italy and Spain were starting to come to grips with increasing numbers of immigrants within their borders.

One of the first measures that the southern European countries pursued was regularization programs, which reportedly attracted Senegalese migrants from France who were finding it increasingly difficult to gain and maintain secure legal status (Kaag 2008; Fall 2005; Tall 2008; Schoumaker et al. 2013). Research also points to the role that the economies of these southern European countries played in attracting Senegalese migrants. Both countries have a more-robust informal sector than France, wherein migrants can find gainful employment without competing with natives or the need for legal authorization (Reyneri 1998; Gonzalez-Enríquez and Triandafyllidou 2009). Many Senegalese thus turned to informal entrepreneurial activities in

northern Italy or informal agricultural labor in Spain as ways to accumulate the resources they were increasingly unable to find in France (Ebin 1992; di Friedberg 1993; Riccio 2001).

Immigration-control policies have thus played an important role in structuring the migration strategies and incorporation of Senegalese migrants in France, Italy, and Spain. This chapter will trace the evolution of those policies and the mechanisms of external and internal control (Brochmann 1999) they define (see Table 2.1 for the terms for visas, residence permits, and work permits in France, Italy, and Spain). It will examine the consequences policies and mechanisms of control have had for trajectories of legal status of Senegalese migrants, and in so doing will underline that the legal status that migrants possess is a relational product (Sciortino 2004). States thus create the legal parameters that define pathways to regular or irregular legal status.

Table 2.1: Terms for visa, residence permit, and work permit in France, Italy, and Spain

<i>Authorization</i>	<i>France</i>	<i>Italy</i>	<i>Spain</i>
Visa	Visa	Vissti	Visado
Residence permit	Titre de séjour, carte de séjour, carte de résident	Permesso di soggiorno, carta di soggiorno	Permiso de residencia, permiso de estancia
Work permit	Titre de travail, carte de travail, autorisation de travail	Autorizzazione al lavoro	Autorización administrativa para trabajar

## 2.2 France

### 2.2.1 *Colonial “assimilation” and citizenship*

The French established their first permanent settlement in what is now Senegal on an uninhabited island in the mouth of the Senegal River in 1659. Originally set up as a trading post to take advantage of commercial opportunities along the river, Saint-Louis—named after King Louis XIV— eventually became the capital of the French colony of Senegal (Crowder 1967). A small community of French traders and mixed French-African “*habitants*” developed Saint-Louis into a commercial hub. The rights of the *habitants* as French citizens were recognized by the French revolutionary government in 1791, and a law in 1833 guaranteed the civil and political rights of all free-born or freed persons born in French colonies (Coquery-Vidrovitch

2001). The revolution of 1848 further entrenched these rights by giving Senegal a seat in the French parliament and allowing Senegalese born in the *quatre communes* of Saint-Louis, Gorée, Rufisque, and Dakar—called *originaires*—to vote as French citizens (Coquery-Vidrovitch 2001).

This extension of rights to Senegalese *originaires* was part of the French policy of colonial “assimilation.” Crowder (1967) notes that “assimilation” can have many meanings when it comes to French colonial policy, but argues that its application in Senegal included political assimilation to France by elected representation in the French assembly; administrative assimilation through the creation of a *conseil général* and municipal councils for the governance of Senegal modeled on similar structures for departmental and municipal governance in France; and the extension of French educational facilities. Assimilation was also extended on the personal level by according *originaires* the status of French citizens. *Originaires* thus faced a much more lenient administration than residents of the rest of Senegal and other nations of the Afrique Occidentale Française (AOF), who, as *sujets*, were subject to military rule, violence, cash taxes, and forced labor (Crowder 1967). *Originaires* were subject to French civil law unless they opted to remain under the traditional system of Islamic law with reference to civil disputes, matrimony, divorce, inheritance and land.

This bifurcation of French citizenship provoked a reaction on the part of the French, who felt that to be included in the French polity as a French citizen required a submission to French civil law and related institutions, such as monogamous marriage (Crowder 1967). As a result, French legislators and colonial administrators often attempted to redefine the boundaries of French citizenship and nationality in ways that would exclude the *originaires* from the full exercise of their rights (Coquery-Vidrovitch 2001). Blaise Diagne, who served as the first African deputy from Senegal to the French assembly from 1914 to 1937, attempted to reinforce these rights during World War I by shepherding a series of laws through the assembly that not only allowed Senegalese soldiers, who had heretofore served in the French military in segregated units called the *tirailleurs sénégalais*, to serve in regular units alongside French soldiers, but also stipulated that all natives of the *quatre communes* and their descendants would be French citizens subject to military service (Coquery-Vidrovitch 2001).

Senegalese and other natives of French West Africa fulfilled this obligation by serving as shock troops in World War I and fighting with General de Gaulle's forces in North Africa and Italy in World War II; West African troops even fought in French conflicts in Indochina and Algeria following World War II (Mann 2003). Despite this "blood debt," the French policy of assimilation existed mostly as an imaginary ideal, as colonial administrators consistently made attempts to limit claims to French citizenship and reinforce African inferiority (Crowder 1967; Coquery-Vidrovitch 2001). Despite these efforts to limit the ability of Senegalese to access the full rights French citizenship while burdening them with some of the onerous responsibilities, the precedent of political and personal assimilation created a special status for Senegalese that the French would continue to acknowledge in the preferential regime that followed independence in 1960.

## **2.2.2 Post-War Reconstruction and the Importation of Foreign Labor**

### **2.2.2.1 The general regime of the ordinance of 1945**

Facing a severe shortage of labor power after World War II and a looming demographic disaster due to low birth rates, France pursued a policy of importation of foreign labor. The *Ordonnance n°. 45-2658 du 2 Novembre 1945, relative à l'entrée et au séjour des étrangers en France* organized this labor migration under the auspices of the *Office national de l'immigration* (ONI) (see Table 2.2 at the end of section 2.2 for a synthesis of the evolution of immigration policy in France). Employers wishing to hire foreign labor were formally required to submit a request to ONI, which would fill the post with a qualified foreigner. The *ordonnance* further stipulated that foreigners entering for work needed to do so under cover of a visa and with a government-approved work contract. Upon arrival, migrants needed to apply for a *permis de résidence* (residence permit) from the Ministry of the Interior and a *permis de travail* (work permit) from the Ministry of Labor. There were many kinds of residence permits for different types of stay for more than three months, but obtaining a residence permit for the purposes of a salaried activity required the presentation of an official work contract.; After obtaining a temporary authorization to stay in France, the migrant would then receive a work permit (Spire 2005).

In reality, decisions on the granting of residence and work permits were made by autonomous bureaucrats and were often not coordinated between Ministries, leading to permits of different lengths and the

possibility of irregularity in either legal domain (Spire 2005). The 1945 ordinance provided the foundations of immigration in policy in France through the end of the 20th century, but its text was not officially modified until the 1980s. Thus most changes in immigration policy prior to those modifications occurred in administrative circulars issued by various ministries, a method chosen for its flexibility and lack of oversight in representative political bodies (although the *Conseil d'Etat* could, and occasionally did, weigh in on the constitutionality of these measures).

#### 2.2.2.2 *Decolonization and the creation of a preferential regime*

The French colonial system, with its distinction between *originnaire* and *sujet*, existed until 1946, when, in the aftermath of World War II, France promulgated a new constitution. At this point, all residents of French colonial territories and protectorates were granted French citizenship, which would, in theory, allow free circulation and establishment between the territories of the empire. In practice, colonial administrators did not allow colonial subjects to travel to the metropole, all the while encouraging intra-colony mobility via cash head taxes to assure a steady supply of labor for colonial cash crops (such as peanuts in Senegal) (Amin 1972).

Senegalese and other African subjects were thus still part of the French empire and were not considered foreigners; the *ordonnance* of 1945 thus would not have applied to them if they had sought to work in France. In reality, the colonial system still prevented circulation between the colonies and the metropole, so sub-Saharan African workers were not, at this point, considered as a viable source of metropolitan labor even though they had been considered as a viable source of military manpower during the two World Wars.

During the post-war era, African political elites were debating the place of their societies in the French colonial system: while some leaders favored ongoing federation with the colonial power and the assimilation to the French polity and nation that it implied, others favored the independence of the colonies as sovereign nation-states. France decided to put the issue to a vote in 1958, when it proposed a new constitution that defined a new *Communauté française*. France organized a referendum by which colonial territories were free to accept the constitution, and remain within the *Communauté*, or reject it and become an independent nation-state. Guinea, under the leadership of the trade unionist Sékou Touré, voted

resoundingly to reject the constitution and became independent in 1958. Senegal and the other colonial territories remained in the *Communauté*, but the inexorable momentum was towards independence, which Senegal achieved in 1960, first as a federation with neighboring Mali and subsequently as a fully independent nation-state in 1962.

### 2.2.3 *The 1960s*

#### 2.2.3.1 *Senegalese independence, the preferential regime, and “immigration sauvage”*

France did not block these territories from becoming independent, but was concerned about protecting its colonial interests. It thus concluded a series of bilateral treaties with the newly independent countries on a number of matters, including military cooperation. One of the most important treaties was the “*Convention d’établissement*,” which stated that French nationals resident in Senegal had the same rights as Senegalese nationals, and vice versa. This accord notably guaranteed bilateral freedom of entry and residence and free exercise of economic activities. While in some ways this allowed for the continuation of French colonial citizenship for Senegalese nationals, the motive for this treaty had more to do with protecting the rights of French citizens in Senegal (Marot 1995). This “*assimilation au national*” was enacted in a bilateral treaty signed by France and Senegal in 1964 that allowed for free circulation between the two countries and free establishment and exercise of professions for expatriates residing in the foreign country. Senegalese needed only an identity card and proof of vaccinations to enter France, while formal work was subject to an employment contract approved by the Ministry of Labor and a medical exam at the French consulate in Senegal.

While the provisions of this treaty seem remarkably open, at the time it was seen as restrictive: the independence of Senegal and other African colonies had provoked what was seen as an “*immigration sauvage*” to the metropole, and the French authorities saw the requirement of identity documents, vaccination cards, and work contracts as an effective way to stem this flow (Bergues 1973; Diop 1993). Even Senegalese authorities criticized this new flow of emigrants, and imposed an exit visa for Senegalese wishing to travel to France (Kane 2011). Thus, while Senegalese did not need a visa to enter France and did not need a residence permit to reside there, the requirement of an exit visa and of identity documents created the framework for a kind of irregular status. Senegalese without identity documents would often



enlist as crew or stow away on France-bound ships, and would then enter France clandestinely when the ship docked at Bordeaux or Marseille. These migrants could be considered to have entered irregularly even though no visa was required (Bergues 1973). Senegalese migrants with identity documents would also circumvent the exit-visa requirement by traveling to neighboring African countries to other European countries before traveling to France (Bergues 1973). Senegalese and other former African subjects thus faced legal configurations that created the conditions for irregularity even during this early “preferential” regime.

Despite limited stocks of sub-Saharan Africans in France (Tapinos 1965 estimates the total “very low” sub-Saharan population at 35,000), there was increasing concern throughout the 1960s in France about the continued “*immigration sauvage*” of Senegalese and other sub-Saharan Africans. Reports to the *Conseil économique et social* in 1964 and 1968 highlighted the deplorable conditions under which many of these migrants lived, and articles in the popular press “discovered” these migrants and likened their situation to modern slavery (Diop 1993). A particular concern was the high rate of tuberculosis among sub-Saharan Africans in France; a series of circulars in 1968 and 1969 thus reinforced the requirements of medical examinations prior to entry for work (Bergues 1973).

In addition to concerns about the health and living conditions of these migrants, there was a growing realization that many of the limited number of Africans residing in France arrived as tourists and subsequently found work and regularized their status after arrival. While the bilateral treaties only allowed Senegalese to enter France for work under cover of a formal work contract, the treaties also did not allow Senegalese to be refused employment once in France. The treaties also did not require Senegalese to have a *carte de séjour* or a *permis de travail*. As a result, many Senegalese thus entered France on their identity cards (or those of others if they did not have their own) and simply looked for work once in France. The Ministry of the Interior thus wanted to impose the obligation of a *carte de séjour* on Senegalese and other Africans who were subject to bilateral accords that exempted them from possessing such an authorization (Spire 2005).

Unable to convince the Ministry of Foreign Affairs to push for the revision of the treaties, the Ministry of the Interior thus published a “note” in February 1970 instructing border-control agents to interrogate Africans arriving at the border as to their motives for stay and their means of return to their home countries. If admitted, the African “tourist” would then be issued a “*notice individuelle pour touriste étranger*” with the tourist’s civil status and expected length of stay in France; this document had to be presented to police during identity checks, and formed that juridical basis for expulsion of the perceived increasing number of “clandestine” African migrants (Spire 2005). This immigration-control measure, of questionable legal validity because of the exemption of Senegalese from general immigration requirements, thus provided French authorities with a “back door” to combat this unwanted flow and transform migrants who were “regular” from the point of view of the treaties governing their status into “clandestine” migrants with “irregular” status. The French state thus took concrete steps in the 1960s to transform a legal flow of migrants into an irregular one in the pursuit of increased control.

#### *2.2.3.2 The general regime: post-facto regularization as the norm*

At the same time that pressure was mounting to submit Senegalese and other former subjects from sub-Saharan Africa under stricter control, the general immigration-control regime started to come under criticism. Throughout the 1950s and 1960s, the ONI had the official monopoly on the introduction of foreign labor into France. In reality, however, direct hire of foreigners by employers and subsequent regularizations of status were the norm. This arrangement between employers and the state has its legal basis in a circular issued by the Ministry of Labor on April 18, 1956, which put “regular” immigration organized by ONI and post-arrival regularization procedures on the same plane, and encouraged regularization of workers in sectors where there were labor shortages (Spire 2005).

This leniency in the introduction of foreign labor was related to an economic recovery in 1955-56 and the start of the war in Algeria, which drained native manpower from France and limited the ability of employers to recruit labor from North Africa. In the decade following the issuance of this circular, the vast majority of foreign workers in France underwent regularization after irregular arrival and irregular employment. Laubenthal (2007) reports that 80% of foreign workers in France at the end of the 1960s underwent this adjustment of status, and that the ONI’s role was effectively reduced to conducting post-

arrival regularizations. Economic conditions—growth and the demand for flexible labor—thus created political tolerance of irregular migration, and the legal framework was adapted to allow these employers to hire and adjust the status of these flexible workers. Furthermore, most of the beneficiaries of this ongoing regularization regime were Portuguese, Spanish, or Italian, and Spire (2005) argues that this legal mechanism was motivated, in part, by a desire to counterbalance the ability of racially distinct former colonial subjects from Africa to enter and work in France without the need for official authorization.

An economic slowdown in 1965 pushed French authorities to reconsider this “spontaneous” immigration system that escaped the boundaries of formal immigration law. *A posteriori* regularizations, which had been the lifeblood of French labor recruitment, were scaled back by a circular issued on July 29, 1968 by the Ministry of Social Affairs. While in legal terms this circular only called for a stricter application of the laws already on the books (which did not allow for *a posteriori* regularizations), in practical terms it did start to impede regularizations, the rate of which dropped from 82% in 1968 to 60.3% in 1971 (CERC-Association 1999). The fact that this measure did not completely prevent regularization was due to the fact that it continued to allow Portuguese nationals and workers in certain sectors (including domestic workers) to be regularized.

## **2.2.4 The 1970s**

### **2.2.4.1 The end of regularization and the suspension of labor immigration**

Further slowing of the economy and an increasing desire on the part of French authorities to control “irregular” migration—which was, in reality, produced by the administrative interpretation of the 1945 *ordonnance*—prompted additional restrictions on regularizations in 1972. The Marcellin and Fontanet circulars, issued by the Ministries of Interior and Work, respectively, effectively limited regularizations by requiring employers requesting the regularization of a foreign employee to post an offer for the foreigner’s job with the *Agence nationale pour l’emploi* (ANPE), allowing French nationals to apply for it (Spire 2005). These measures seem to have had their intended effect, as the regularization rate dropped below 60% in 1972 and 1973, although Portuguese were still exempt from these restrictions.

The 1972 circulars also undertook a major reform in the system of residence and work permits, which both reduced the ability of foreign workers to regularize their status *a posteriori* and created new kinds of irregularity. The circulars envisaged a “*guichet unique*” where migrant workers would apply simultaneously for residence and work permits. These permits were to be issued for the same length of time, eliminating the possibility that migrants could have regular status in one legal domain and not the other. The circulars also subjected the issuance of a residence permit to the possession of a work permit: a foreigner applying for these authorizations filled out a single form and had to produce a work contract and a certificate of an offer of employment endorsed by the ANPE (Spire 2005). Workers without a formal work contract were unable to obtain authorization to work or reside in France and were ineligible for exceptional regularization procedures; these circulars, in attempting to create a system of stricter immigration control, thus transformed formerly regularizable workers into irregular migrants (Spire 2005).

After almost three decades of economic growth and relative prosperity (what is called in France “*les trente glorieuses*”), the oil shock of 1973 sent the world and French economies into a tailspin. Even before this climactic event, unemployment had been increasing and there was growing restlessness about the increasing number of foreign workers in France and the relative ease with which they entered the country and subsequently found jobs and regularized their situations (Laubenthal 2007). In addition, France saw an increasing influx of foreigners from its former colonies in North and West Africa. Unlike the Spanish, Portuguese, and Italian immigrants of the early post-war period who were seen as having similar cultural values and were thus prized not only for labor purposes but also for demographic “re-peopling,” these former colonial subjects were perceived as difficult to assimilate into the French polity and way of life (Spire 2005).

The French government responded to these economic and social pressures by unilaterally suspending labor immigration through a decision by the Council of Ministers on July 3, 1974. Administrative circulars “temporarily” put an end to the introduction of salaried workers on July 5 and to the introduction of applications for family reunification on July 9 of that year. The circulars officially activated the government’s ability to refuse applications for *cartes de séjour* based on the national employment situation (CERC-Association 1999). The suspension of family reunification provisions, formalized in a decree issued

on September 27, 1974, was rejected by the *Conseil d'Etat* and reunification procedures, under stricter lodging conditions, were officially reinstated by the government on April 29, 1976 (CERC-Association 1999).

While the circulars contained exemptions to allow for the entry of foreign labor in sectors where the national labor supply was insufficient (Gokalp 1975), the “temporary” suspension of labor immigration became de facto permanent over the course of the 1970s, with recourse to rejections of applications for residence and work permits because of the national employment situation increasingly common (CERC-Association 1999). Contemporaneous study of the impact of these measures indicated that they had been successful in reducing entries, but also in increasing the irregularly resident population (Gokalp 1975).

In addition, in an effort to prevent immigrant workers from entering and working in France, all categories of foreigners wishing to enter the country—students, refugees, reunified family member—faced suspicion of being “hidden workers” and thus underwent additional scrutiny from enhanced immigration-control systems (CERC-Association 1999). These administrative actions also actively created irregularity of status by denying residence and work authorizations, and the French state thus had to identify and deal with these irregular migrants by trying to repatriate or regularize them.

#### 2.2.4.2 *Establishment of the carte de séjour requirements for Senegalese*

The decision to suspend labor immigration had an impact on the bilateral regime that defined Senegalese migration to France. The stricter control on migrant labor of the 1972 and 1974 circulars reflected an increasing emphasis on border surveillance and the control of labor flows, which had long been marginalized with the de facto tolerance of irregular immigration and post-hoc regularization (Spire 2005). The ability of Senegalese and other sub-Saharan Africans formerly under colonial control to enter and reside in France without authorization clashed with this new emphasis on the “*maîtrise des flux*,” and so the Ministry of the Interior finally convinced the Ministry of Foreign Affairs to re-negotiate the treaties that created this preferential regime (Spire 2005). Senegal and France signed a re-negotiated bilateral accord on March 28, 1974 that required Senegalese staying in France for more than three months to “possess and produce upon demand” a *titre de séjour*, but did not require a visa for entering the country. Senegalese

living in France as of January 1, 1974 were issued a renewable residence permit that would be valid for not less than five years.

While this bilateral accord was not ratified until December 19, 1975, the French Ministries of Labor and the Interior issued circulars on November 30, 1974 requiring all nationals of sub-Saharan African states formerly under French administration to be in possession of a *titre de séjour* from January 1, 1975 onwards. Senegalese and some other African nationals were not required to apply for a separate *carte de travail*, but the circulars specified that the issuance of the *titre de séjour* was contingent upon presentation of a government-approved work contract issued prior to the departure from the origin country. Family reunification was still allowed, but was conditional on a certificate of lodging and a medical exam of the family members (Gokalp 1975; Marot 1995; Viet 1998).

While the circulars respected some of the elements of the Franco-Senegalese treaty of 1974 (such as the issuance of a five-year residence permit for Senegalese already residing in France, as opposed to a three-year permit issued to other African nationals), it went beyond the scope of the accord by making a residence permit contingent on a work contract. While the *Conseil d'Etat* canceled some of the measures in 1978, including the ability to reject applications based on the national employment situation (thus partially reaffirming the special status of former colonial subjects), it reaffirmed the general principles that Senegalese and other former colonial subjects were required to have a *titre de séjour* and that this permit could be conditioned on having a formal work contract certified by the Ministry of Labor (Marot 1995).

This renegotiation of the bilateral accord and subsequent unilateral abrogation of the bilateral treaties previously on the books in 1974 thus moved the “preferential regime” for Senegalese much closer in line with the general regime. With labor immigration officially suspended, the work contract on which successful applications for a residence permit depended would be almost impossible to acquire, thus effectively limiting the ability of Senegalese to enter France for work. This requirement probably had only a small impact on the official flow of Senegalese workers to France, however, as their numbers were already limited by the difficulty, even prior to 1974, of acquiring a work contract (Bergues 1973).

The main impact of requiring a residence permit and making it conditional on a work contract would make it almost legally impossible for Senegalese who entered France as “tourists” to stay for more than 90 days. These modifications of the bilateral regime thus created new possibilities for irregular status for Senegalese migrants: those entering legally as “tourists” would become irregular by staying past 90 days, and those Senegalese already in France would inevitably become irregular after the expiration of their first residence permit if unable to present a formal work contract to accompany their application for renewal.

It is no coincidence that these modifications to the preferential regime occurred in 1974, a moment during which there was political and economic momentum for the closing of the French borders to foreign workers. These modifications also drew on the innovations introduced by the Marcellin-Fontanet circulars of 1972, especially the concept of the “*guichet unique*,” which created a single residence and work permit and made the former conditional on a formal work contract. At the same time, Senegalese and other sub-Saharan Africans were required to interact with the French administration via an “office of foreigners with special status,” often staffed by former colonial administrators with “expertise” in dealing with sub-Saharan Africans, thus indicating that the integration of these former subjects into the general regime was not yet complete (Spire 2005).

The rest of the 1970s saw a further drift of the general immigration-control regime towards policies of exclusion and surveillance. While the 1974 circulars had been effective at reducing immigration to France, they did not eliminate it completely, and those migrants that remained became more focused on settlement in France as the borders closed (Schain 2008). The French government thus decided in 1977 to suspend family reunification (reversed the following year by a decision of the *Conseil d’Etat*) and initiated policies to facilitate the “voluntary return” of migrants (Schain 2008).

### **2.2.5 The 1980s: Immigration policy as a political football**

The emergence of immigration as a major issue in the political sphere marked the 1980s, and the decade saw, for the first time, major revisions of the 1945 *ordonnance* governing the general immigration regime. The decade began with a re-entrenching of the exclusionary policies enacted in the 1974 circulars via the *loi Bonnet*. Passed by a right-wing government in 1980, the law tightened entry requirements by requiring

repatriation guarantees and declared the entry or residence of “illegal” migrants to be a threat to public order (Schain 2008). The law also made expulsions of undocumented migrants easier, even if they were minors or had family attachments (Schain 2008).

The *loi* Peyrefitte of 1981 increased the policing power of the state vis-à-vis migrants by allowing preventative identity checks (“stop and frisk” measures) of suspected undocumented migrants. A circular from the Ministry of Labor on June 10, 1980 encouraged the labor administration to invoke the national employment situation as a motive for refusing the renewal of work permits, which would make migrants ineligible for renewal of their residence permits; this motivation for refusal was even applied to those migrants who were still employed, effectively expelling them from France (CERC-Association 1999). These measures thus targeted migrants resident in France as a threat to public order and laid the legal basis for their expulsion. Indeed, deportation had become a primary tool of the French government for both combatting “clandestine” immigration and employment and making migrants’ stays in France precarious (Miller 1994). As sub-Saharan Africans were subject to requirements for residence permits conditional upon work authorization from 1974 onward, these restrictive measures undoubtedly affected them as well.

The arrival of the left-wing Mitterand government to power in 1981 inaugurated an era during which immigration policy was a political football for alternating left- and right-wing governments. Between August and October 1981, a series of reforms sought to roll back some of the restrictive measures of previous years: incentives to return were abolished; the government eliminated the provisions of the *loi* Bonnet allowing the expulsion of minors and parents of French children or children born or arrived in France before the age of ten; and a vast regularization program adjusted the statuses of 132,000 migrants (CERC-Association 1999). A law on July 17, 1984 (the *loi* Dufoix) followed these liberalizing reforms with a complete revision of the system of residence permits, reducing the number of such permits to two.

The Dufoix law introduced a ten-year *carte de résident*, which granted work authorization and was automatically renewable; this permit thus removed the obligation of prior work authorization for settled immigrants and implicitly recognized the permanent nature of immigration to France (Weil 1995). The law also defined a temporary *carte de séjour* with a maximum validity of one year. Foreigners wishing to work



would still need a prior work authorization, but a foreigner not wishing to work in France could be authorized to stay without working upon proof of adequate means of existence (CERC-Association 1999). The *guichet unique* of the 1972 Marcellin-Fontanet circulars was thus enshrined in legislation, abolishing the duality of residence and work permits while making the former dependent on the latter.

Despite these reforms, some of the previous government's restrictive measures were maintained, including preventative identity checks and the retention and forced expulsion of some migrants (CERC-Association 1999). Additional restrictive reforms were initiated under the right-wing "cohabitation" government led by Prime Minister Chirac from 1986 to 1988. The first *loi* Pasqua of 1986 facilitated expulsion procedures and restricted access to ten-year permits (Schain 2008). The resumption of a left-wing parliamentary majority in 1988 led to the *loi* Joxe of 1989 that eased some of the restrictive measures of Pasqua's law.

Regardless of the political and legislative jousting over immigration, there was an increasing convergence between the left and right on issues of border security: while opposed on issues of immigrant integration and security of residence, both sides seemed to find political utility in securing the frontier through increased external controls, rejection of asylum claims, and increased police control and occasional roundups of suspected undocumented immigrants (Schain 2008).

## **2.2.6 Visa requirements for Senegalese and the re-negotiated bilateral accord of 1995**

### **2.2.6.1 Unilateral imposition of visa requirements in 1986**

The evolution across the political spectrum towards a system of hardline external controls had a profound impact on the bilateral immigration regime with Senegal. Against a backdrop of terrorist attacks in Paris, the French government unilaterally suspended, via a notice from the Ministry of Foreign Affairs on September 16, 1986, the clauses of bilateral treaties exempting Senegalese and other sub-Saharan Africans from visas for entry to France (Marot 1995). While this measure initially applied to Americans, Canadians, and EU nationals as well as nationals of former French colonies, the French government would subsequently exempt citizens of developed countries, thus creating a system of external controls for developing countries deemed to present a "migratory risk." This measure thus added external control to the Senegalese immigration-control system and moved it one step closer to integration with the general regime.

#### 2.2.6.2 *New bilateral accord*

An inter-ministerial committee decided on July 10, 1991 to promulgate as official policy the “control of migratory flows” (*maîtrise des flux migratoires*) in keeping with France’s 1990 accession to the Schengen treaty and its stringent border-control requirements. These developments led to a new push to revise the bilateral treaties with African states. While the Franco-Senegalese treaty of 1974 instituted requirements for residence permits, the unilateral imposition of visa requirements by the French government in 1986 was at odds with the existing accord. A new treaty was thus signed by France and Senegal on August 1, 1995<sup>8</sup> that codified the visa requirements of 1986. Senegalese wishing to enter France for a stay of less than three months had to apply for a visa and show both proof of means of existence during the stay and a return-trip ticket to Senegal. For stays longer than three months, Senegalese had to apply for a *long séjour* visa. If they wished to work upon arrival, the treaty required them to have an approved work contract prior to departure and a long-stay visa.

This new system of visas for Senegalese mirrored the visa requirements of the Schengen system. The treaty required a residence permit for all stays in France exceeding three months; the exact regulations governing granting of this permit were not specified, so it is likely that they were subject to the prevailing legislation regarding residence permits (i.e., that they were conditioned on having a formal work contract or proof of means of existence). The only nod to the formerly privileged status of Senegalese was the provision of the granting of a ten-year *titre de séjour* after continued regular residence of three years as opposed to five years in the prevailing legislation; Senegalese were otherwise subject to provisions in line with the general immigration regime.

#### 2.2.7 *The 1990s: Pasqua, Debré, and the sans-papiers movement*

The restrictionist impulse that undergirded changes in French immigration policy in the 1980s got a boost from the return to power of a right-wing coalition in 1993 and the rise to prominence of the extreme-right *Front National* party of Jean-Marie Le Pen in the 1990s. The right-wing cohabitation government headed

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<sup>8</sup> Although signed in 1995, the treaty was not published in the *Journal officiel de la République Française* until March 12, 2002.

by Balladur overtly proclaimed a goal of “*immigration zéro*” (Hollifield 1999), which was translated into legislation by the second *loi* Pasqua. The goal of this law was to roll back procedural and social rights for immigrants in France and limit their ability to settle in the country (Hollifield 1999).

The law also created new forms of legal precarity for a number of categories of migrants: it made acquisition of French citizenship more difficult for children born in France, facilitated the expulsion of undocumented foreigners, increased waiting time to two years for family reunification, prohibited the regularization of undocumented migrants who married a French citizen, made the issuance of residence permits dependent on the regularity of entry and prior stay, and denied re-entry for one year for expelled foreigners (Hollifield 1999; Wihtol de Wenden 2002; Schain 2008). This law, in pursuing a zero-tolerance strategy on immigration, thus created new pathways into irregularity by making it more difficult to gain and maintain regular status.

The Pasqua law also created contradictory legal situations for many migrants in which they were “*ni régularisable ni expulsable*.” Such migrants were not eligible for renewal of status because of the restrictions in the Pasqua law, but also could not legally be deported, often because of other provisions in existing laws that protected migrants who had resided in France for a long time or those with “attachments” in France from being expelled (Hollifield 1999). Of particular consequence for Senegalese and other African migrants were restrictions on accessing and renewing residence permits for polygamous families, which forced “secondary” spouses to choose either divorce and “*décohabitation*,” remaining in a polygamous union and falling into irregular status, or returning to Africa (Alaux 2001).

Choosing to remain in a polygamous marriage would mean falling into the gray zone of being neither regularizable nor deportable for both secondary spouses and their husbands: they would not be eligible for renewal of residence permits, but they could not be deported since most of these marriages had minor children that qualified their parents for protection. While not all Senegalese families were polygamous, the law certainly drew on public anxieties about African polygamy to restrict this family form, echoing the debate from the colonial administration in Senegal that saw polygamy as incompatible with French citizenship.

The contradictions inherent in the Pasqua law gave rise to the *sans-papiers* movement of 1996. This movement was made up of Senegalese and other West Africans, many of whom were *ni régularisable ni expulsable* because of the Pasqua law. More than 300 migrants camped in two different churches in Paris between March and August 1996 to bring public attention to their legal plight (Marin 2006). They demanded that the government recognize the absurdity of their administrative situations and offer pathways to regular status. The occupation of the Saint-Bernard church ended dramatically with the French National Police in riot gear chopping down the wooden door and forcibly evacuating the *sans-papiers*, but not before garnering national attention that spurred 10,000 people to march in Paris in support of their cause in February 1997 (Marin 2006; Terray 2006).

The government, led by now-President Chirac, responded in April 1997 with another modification of the 1945 *ordonnance*. The *loi* Debré, although it sought to resolve some of the “*ni...ni*” contradictions of the Pasqua law highlighted by the *sans-papiers* movement, actually contained provisions that would make it “impossible for most of the protesters to regularize their status” (Schain 2008:54). While French-born minor children of irregular migrants and foreign spouses of French citizens with irregular status could neither receive an adjustment of status under the Pasqua law nor be deported because of their family attachments, the Debré law set the bar unrealistically high for regularization of these categories of migrants. “Foreign” children under the age of 16 would have to demonstrate ten years of continuous residence in France before being granted a one-year residence permit, and “foreign” spouses had to have been married for two years before being eligible for the same one-year permit (Hollifield 1999; Schain 2008). The law thus prolonged the duration of irregularity for these “*ni...ni*” migrants with strong family links to France. The Debré law also increased the state’s surveillance power of suspected irregular migrants: it allowed the confiscation of the passports of migrants in an irregular situation, the storage of fingerprints of foreigners applying for a residence permit, increased police power, and restricted judicial power in matters of retention of irregular migrants (Hollifield 1999)

Hollifield argues that one of the underlying intents of the Pasqua and Debré laws was to “devise a system for controlling entries by Africans” (1999:83). The Pasqua law’s targeting of polygamous families was clearly aimed at African migrants, and its hardening of the barriers to legal stay and acquisition of

citizenship for children of irregular migrants demonstrated a desire to uproot entire families. Early versions of the Debré law required French citizens to report the presence of any foreigners hosted in their domicile, with a number of countries exempted except for those in Africa (Schain 2008). While these provisions were softened in the final version of the law, the intent was clearly to make it more difficult for Africans to reside in France.

This system allowed the French government to control African immigration without resorting to American-style numerical quotas, which would have clashed with republican ideals of egalitarianism in visa requirements for citizens of developing countries and also would have been seen as discriminatory towards its former colonies (Hollifield 1999). By 1997, then, the former preferential regime allowing free circulation of Senegalese has been completely dismantled by successive re-negotiations of treaties, and the general immigration-control system was modified in such a way as to limit entries of Senegalese and to make it difficult for them to stay and work legally in France.

The election of a socialist majority to the Assembly in 1997 led to another period of political cohabitation, this time with the right maintaining control of the presidency and the left gaining control of the office of Prime Minister. The Jospin government gave a high priority to immigration reform, promising to resolve the ambiguities of status created by the legal labyrinths of the Pasqua-Debré laws and re-establishing the republican foundations of immigration. The Interior Minister issued a circular on June 24, 1997 instructing *préfets* to proceed with case-by-case regularizations with provisions for the adjustment of status of spouses with irregular status and children of migrants with irregular status (Levinson 2005a).

A direct result of the *sans-papiers* movement and its widespread public support, this regularization program attracted 150,000 applications and eventually adjusted the status of 90,000 people, 85% of whom were regularized for family reasons (Levinson 2005a; Terray 2006). These regularizations, however, only allowed the granting of temporary, one-year permits, thus prolonging the precarity of many groups of migrants and imposing the paradoxical burden of having to document their previous irregular status in order to gain access to more permanent residence permits (GISTI 2011).

While the 1997 regularization program sought to quickly resolve some of the contradictions of the Pasqua-Debré laws, the Jospin government also passed legislation to alter those laws. Drawing on the recommendations from a committee headed by Patrick Weil, a French historian of immigration, the 1998 *loi Chevènement* (also known as the *loi RESEDA*) included broad changes in the system of issuing residence permits designed to reinforce the rights of migrant families in France: minors brought to France for family reunification, foreigners who entered France before the age of ten, foreign parents of French children, and foreign spouses of French nationals would all receive initial one-year residence permits (Hollifield 1999). The law also included a provision granting a residence permit to any foreigner able to prove residence in France for ten years (Hollifield 1999). This provision gave rise to ongoing *régularisations au fil de l'eau* (“on-the-fly regularizations”) during the following decade in which migrants from sub-Saharan Africa are over-represented (Lessault and Beauchemin 2009). The Jospin government also reformed the nationality code with the Guigou law of 1998, which reinstated limited *jus soli* provisions: individuals born in France could obtain French nationality at the age of 18 if they had lived in France for at least five years after age 11, or parents could request naturalization for minors as early as age 13 if the child had lived continuously in France for five years (i.e., since age 8) (Hollifield 1999).

Despite these changes and the assertions of the Jospin government that immigration was in keeping with the French republican tradition, the 1997-1998 laws continued many of the restrictive policies of the 1980s, including tightened visa requirements and provisions for detention and expulsion of irregular migrants (Schain 2008). Indeed, Schain (2008) argues that the trend in immigration policy in France has been towards a commitment to certain forms of control regardless of which political party holds office. This commitment has mostly been towards exclusion of immigrants, with right-wing governments tending towards tightening existing requirements; left-wing governments, on the other hand, have not attempted to roll back exclusionary restrictions but have merely increased judicial oversight (Schain 2008).

Thus the trend of the immigration-control system vis-à-vis Senegalese towards restriction has paralleled a similar movement in the overall regime. Some research points to the decline of the immigration of demographically valuable southern European migrants and the increase in racially and religiously distinct immigration from the former colonies as a main driver of this exclusionary impulse (Hollifield 1999); thus

the evolution of restrictions on African migration to France cannot be separated from the exclusionary trend in the general immigration-control regime.

### **2.2.8 *The 2000s: Selective immigration and coordinated migration management***

Chirac was able to maintain the presidency in a face-off with far-right candidate Jean-Marie Le Pen in 2002, and the right-wing government seized the opportunity to burnish its conservative credentials with yet another round of immigration-policy reform. Interior Minister Sarkozy pushed for a 2003 law that toughened the provisions of the 1998 Chevènement legislation by easing the expulsion process and increasing the period of detention for irregular migrants to 32 days (Schain 2008). In addition, it reinstated some provisions of the Pasqua-Debré laws that the Chevènement law had abolished, such as the granting mayors the power to refuse entry to foreigners and strict controls on marriage with a foreign spouse. It also increased the waiting time for a permanent residence permit, and made the issuance of permanent and family-reunification permits contingent on proof of “good integration” (Schain 2008). As the the 1945 *ordonnance* regulating immigration to France had seen 23 revisions (including 11 since the mid-1990s), the French government decided to consolidate the post-war measure into the “*Code de l’entrée et du séjour des étrangers et du droit d’asile*” (CESEDA) in 2005.

A second Sarkozy law was passed by the right in 2006 that reinforced some of the restrictive measures of the 2003 law while opening France to new kinds of immigration. The law allowed for some kinds of *immigration choisie*, mainly higher-skilled workers. This was paired with further restrictions on *immigration subie*, including the requirement of the agreement to a *contrat d’accueil et d’intégration* for the issuance of family-reunification permits or permanent residence permits and the repeal of the provision for regularization of long-term residents and.

This reorientation towards selective immigration gave rise to a new round of bilateral accords with Senegal and other countries. These “*accords relatifs à la gestion concertée des flux migratoires et au codéveloppement*” ostensibly aimed to include developing countries such as Senegal in the coordinated management of migration flows. They founded this effort on the organization of some kinds of legal immigration, the fight against illegal immigration, and increased co-development efforts (see Kabbanji

2013 for an analysis of co-development programs). Senegal and France signed such a treaty on September 23, 2006 and it came into force on September 1, 2009. The treaty included provisions for issuance of residence permits that would permit a salaried activity to Senegalese with a job offer in any of 10 listed professions (La Cimade 2009). While some of these professions, such as those in information technology, banking, and medicine, demanded high levels of skill and training, the list contained other, less-skilled professions in industry, agriculture, construction and building trades, and services (security, hairstyling, etc.).

In addition, the accord indicated that these residence permits were available to all Senegalese with a job offer in these professions, including those irregularly resident in France (La Cimade 2009). The treaty included provisions for Senegalese students in France and allowed for special categories of visas for business people, academics, scientists, artists, and athletes. As a counterweight to these measures to facilitate legal immigration, the treaty introduced new mechanisms for fighting illegal immigration. It included a readmission clause, whereby Senegal agreed to facilitate the return of Senegalese nationals found to be residing irregularly in France. The treaty also promised €2.5 million in funds for development projects and measures to encourage Senegalese migrants in France to invest their savings in businesses in Senegal (La Cimade 2009).

This new generation of treaties has come under fire for multiple reasons. Many of the measures for promoting legal immigration were already part of the CESEDA (such as the availability of visas for artists, scholars, athletes and other highly skilled professionals and a basic list of professions which were open to foreigners) (La Cimade 2009). Of more concern was the linking of the increased control of irregular migration with development aid: it seemed that France was exchanging relatively meager sums and vague promises of co-development for readmission agreements that, in many ways, violated human rights (La Cimade 2009). Selective immigration as conceived under the 2006 Sarkozy law thus seemed to serve as rhetorical device for severely controlling migration from Africa while the bilateral accords paid lip service to the special relationship between France and her former colonial possessions.



Table 2.2: Synthesis of major immigration measures in France and consequences for migrant irregularity

<b>Date</b>	<b>Name of law</b>	<b>Consequence for irregularity</b>
November 2, 1945	<i>Ordonnance n°. 45-2658 du 2 Novembre 1945, relative à l'entrée et au séjour des étrangers en France</i>	<ul style="list-style-type: none"> <li>• organized labor migration</li> <li>• foreigners entering for work needed to do so under cover of a visa and with a government-approved work contract</li> <li>• residence permit conditional on presentation of work contract</li> </ul>
October 13, 1946	Constitution of the Fourth Republic	<ul style="list-style-type: none"> <li>• French citizenship granted to all residents of French colonial territories and protectorates</li> <li>• Creation of French Union</li> </ul>
October 4, 1958	Constitution of the Fifth Republic	<ul style="list-style-type: none"> <li>• Creation of the French Community</li> <li>• Independence of Guinea</li> </ul>
April 18, 1956	<i>Circulaire du Ministère du Travail et des Affaires Sociales</i>	<ul style="list-style-type: none"> <li>• Permitted post-arrival regularization of workers</li> </ul>
July 19, 1960	<i>Convention d'établissement</i>	<ul style="list-style-type: none"> <li>• Senegalese free to enter, reside, and work in France</li> </ul>
January 21, 1964	Bilateral treaty	<ul style="list-style-type: none"> <li>• Senegalese needed only an identity card and proof of vaccinations to enter France</li> <li>• formal work was subject to an employment contract approved by the Ministry of Labor and a pre-departure medical exam</li> </ul>
August 21, 1967	<i>Ordonnance no 67-707</i>	<ul style="list-style-type: none"> <li>• reinforcement of medical control for work</li> </ul>
April 29, 1968	<i>Décret d'application 68-399</i>	<ul style="list-style-type: none"> <li>• reinforcement of medical control for work</li> </ul>
July 29, 1968	<i>Circulaire du ministère des Affaires sociales</i>	<ul style="list-style-type: none"> <li>• Post-arrival regularizations of workers scaled back</li> </ul>
February 25, 1970	<i>Note du 25 février 1970 de la Direction centrale des Renseignements généraux consacrée au « renforcement du contrôle des ressortissants africains se présentant en qualité de touriste »</i>	<ul style="list-style-type: none"> <li>• Africans entering as tourists interrogated at border and issued identity document</li> </ul>
January 24, 1972	<i>Circulaire Marcellin-Fontanet</i>	<ul style="list-style-type: none"> <li>• Limited regularizations</li> <li>• Combined residence/work permit</li> </ul>
March 28, 1974	Bilateral treaty	<ul style="list-style-type: none"> <li>• Required residence permit for</li> </ul>

Date	Name of law	Consequence for irregularity
		stays greater than three months
July 3, 1974	decision by the Council of Ministers	<ul style="list-style-type: none"> <li>• Suspension of labor immigration (with administrative circulars following on July 5)</li> </ul>
November 30, 1974	<i>circulaire n. 74-628, en date du 30 novembre 1974, du Ministre d'Etat, Ministre de l'Intérieur, et la circulaire n. 21-74, en date du 30 novembre 1974, du Secrétaire d'Etat auprès du Ministre du Travail relatives aux conditions de séjour et d'emploi des ressortissants des pays d'Afrique au Sud du Sahara autrefois sous administration française</i>	<ul style="list-style-type: none"> <li>• Required residence permit for all nationals of sub-Saharan African states formerly under French administration</li> </ul>
January 1, 1980	<i>Loi Bonnet</i>	<ul style="list-style-type: none"> <li>• tightened entry requirements by requiring repatriation guarantees</li> <li>• declared the entry or residence of “illegal” migrants to be a threat to public order</li> <li>• facilitated expulsions of undocumented migrants</li> </ul>
February 1, 1981	<i>Loi Peyrefitte</i>	<ul style="list-style-type: none"> <li>• allowed preventative identity checks of suspected undocumented migrants</li> </ul>
October 29, 1981	<i>Loi n°81-973 du 29 octobre 1981 relative aux conditions d'entrée et de séjour des étrangers en France</i>	<ul style="list-style-type: none"> <li>• eliminated provisions of the <i>loi Bonnet</i> allowing the expulsion of minors and parents of French children</li> <li>• return incentives abolished</li> <li>• regularization program</li> </ul>
July 17, 1984	<i>Loi Dufoix</i>	<ul style="list-style-type: none"> <li>• formalized single residence/work permit</li> <li>• introduced 10-year permanent residence card with automatic renewal</li> </ul>
September 9, 1986	<i>Loi Pasqua (I): loi n° 86-1025 du 9 septembre 1986 relative aux conditions d'entrée et de séjour des étrangers en France</i>	<ul style="list-style-type: none"> <li>• facilitated expulsion procedures</li> <li>• restricted access to ten-year permit</li> </ul>
September 16, 1986	<i>Avis relatif à la suspension de certains engagements</i>	<ul style="list-style-type: none"> <li>• suspended the clauses of bilateral treaties exempting</li> </ul>

Date	Name of law	Consequence for irregularity
	<i>internationaux portant dispense de l'obligation du visa pour l'entrée en France</i>	Senegalese and other sub-Saharan Africans from visas for entry to France
August 2, 1989	<i>Loi Joxe</i>	<ul style="list-style-type: none"> <li>• eased some of the restrictive measures of Pasqua law</li> </ul>
August 1, 1995	Bilateral treaty	<ul style="list-style-type: none"> <li>• Visas and proof of means/return trip required for entry of Senegalese</li> <li>• Long-stay visa required for stays of over three months</li> <li>• Approved work contract and long-stay visa required for entry for employment</li> <li>• required a residence permit for all stays in France exceeding three months</li> </ul>
August 24, 1993	<i>Loi Pasqua (II)</i>	<ul style="list-style-type: none"> <li>• made acquisition of French citizenship more difficult for children born in France</li> <li>• facilitated the expulsion of undocumented foreigners</li> <li>• increased waiting time to two years for family reunification</li> <li>• prohibited the regularization of undocumented migrants who married a French citizen</li> <li>• made the issuance of residence permits dependent on the regularity of entry and prior stay</li> <li>• denied re-entry for one year for expelled foreigners</li> <li>• created category of "<i>ni régularisable ni expulsable</i>"</li> </ul>
April 24, 1997	<i>Loi Debré</i>	<ul style="list-style-type: none"> <li>• allowed regularization of <i>ni...ni</i> irregular migrants</li> <li>• increased the state's surveillance power of suspected irregular migrants</li> </ul>
June 24, 1997	<i>Circulaire du ministère de l'Intérieur</i>	<ul style="list-style-type: none"> <li>• case-by-case regularizations with provisions for the adjustment of status of spouses with irregular status and children of migrants with irregular status</li> </ul>

<b>Date</b>	<b>Name of law</b>	<b>Consequence for irregularity</b>
March 16, 1998	<i>Loi Guigou: Loi n° 98-170 du 16 mars 1998 relative à la nationalité</i>	<ul style="list-style-type: none"> <li>• reinstated limited <i>jus soli</i> citizenship provisions</li> </ul>
May 11, 1998	<i>Loi Chevènement/RESEDA</i>	<ul style="list-style-type: none"> <li>• reformed system of residence permits to reinforce rights of migrant families</li> <li>• enacted “on the fly” regularizations for those proving ten years of residence in France</li> </ul>
November 26, 2003	<i>Loi Sarkozy: Loi n° 2003-1119 du 26 novembre 2003 relative à la maîtrise de l’immigration, au séjour des étrangers en France et à la nationalité</i>	<ul style="list-style-type: none"> <li>• eased the expulsion process</li> <li>• increased the period of detention for irregular migrants to 32 days</li> <li>• reinstated strict controls on marriage with a foreign spouse</li> <li>• increased waiting time for permanent residence permit</li> <li>• made issuance of permanent and family-reunification permits contingent on integration</li> </ul>
November 24, 2004	<i>Code de l’entrée et du séjour des étrangers et du droit d’asile (CESEDA)</i>	<ul style="list-style-type: none"> <li>• Consolidated immigration law</li> </ul>
July 24, 2006	<i>Loi Sarkozy (II): Loi n° 2006-911 du 24 juillet 2006 relative à l’immigration et à l’intégration</i>	<ul style="list-style-type: none"> <li>• Allowed for some kinds of <i>immigration choisie</i> (high-skilled workers)</li> <li>• Repealed provision for regularization of long-term residents</li> <li>• Required <i>contrat d’accueil et d’intégration</i> for family reunification and permanent residence</li> </ul>
September 23, 2006	<i>Accord entre le Gouvernement de la République française et le Gouvernement de la République du Sénégal relatif à la gestion concertée des flux migratoires</i>	<ul style="list-style-type: none"> <li>• Allowed issuance of residence permits for Senegalese with a job offer (even those irregularly resident in France) in any of 10 listed professions</li> </ul>

## 2.3 Italy

### 2.3.1 *Pre-1986: Italian emigration and the fragmentation of immigration policy*

The history of Italy's immigration-control policies is much more recent than France's and lacks almost all of France's bilateral relationship with Senegal. Most accounts of Italy's immigration policy emphasize that the country was, up until the 1970s, a net sender of migrants and thus had little practical need for a well-established system to control immigration (Sciortino 1999). Fascist-era laws between 1929 and 1931 dealt mostly with political immigration as a public-security issue and subsequent measures were fragmentary and mainly in the form of administrative circulars (Sciortino 1999; Mezger and González-Ferrer 2013).

#### 2.3.1.1 *Mechanisms of internal control*

Despite this fragmentation, a law in 1961 (*Legge* 1961-5) repealing restrictions on internal migration allowed for the introduction of foreign labor through employer application to a local employment office (see Table 2.3 at the end of section 2.3 for a synthesis of the evolution of immigration policy in Italy). If native workers were not available, the employment office was to issue a labor permit (*autorizzazione al lavoro*) and the foreigner could apply for a visa to enter Italy. The worker was issued a *permesso di soggiorno per motivi di lavoro* that was linked to a specific contract, meaning that residence authorization would end with the expiration of the contract (Sciortino 1999). This early law adumbrated some of the features of future Italian immigration-control policy, including the state brokerage of labor migration and the conditioning of residence permits on work authorizations and formal contracts.

Labor migration to Italy nonetheless remained limited through the 1980s, and most internal controls consisted of police checks for the "morality" and public order of immigrants (Sciortino 1999). Another law in 1981 was motivated by the ratification of the International Labour Organization convention on the rights of migrant workers, but did not respond to then-increasing levels of immigration. The Ministry of Labor put a freeze on the issuance of work permits in 1982 in an effort to clamp down on irregular employment, which ultimately led to an increase in such employment (Sciortino 1999).

### 2.3.1.2 *Mechanisms of external control*

Italy's system of external control was likewise limited during most of the 20<sup>th</sup> century. While visas were technically required for entry to Italy, implementation of this requirement seems to have been "lax" into the 1970s (Sciortino 1999). Senegalese in particular were exempted from the visa requirement beginning in 1966. Following an exchange of diplomatic notes between Italy and Senegal, the Italian Ministry of Foreign Affairs issued a circular on September 17, 1966 exempting Senegalese citizens from visa requirements for entering Italy (Mezger and González-Ferrer 2013). This exemption was motivated by Senegal's previous decision to extend the regime of free circulation with France to all members of the European Common Market, including Italy; the Italian circular was thus reciprocal in nature and dependent on the bilateral relationship between Senegal and France. Despite exempting Senegalese from visa formalities, the circular still required them to "regularize their position" if they intended to "settle" in Italy.

While there is little information on Senegalese in Italy prior to the 1980s, some earlier accounts (Bergues 1973) indicate that Italy may have been a stepping stone in Senegalese migrants' journeys to France, perhaps because of this preferential visa regime. As mentioned in section 2.2.3.1 above, Senegalese officials in the 1960s were concerned about the effects of emigration given the bilateral regime of free circulation between France and Senegal, and thus imposed the requirement of an exit visa for trips to France (Bergues 1973; Kane 2011). The same exit visa was not required for trips to Italy and other countries, so Senegalese occasionally traveled to Italy, which they were able to enter freely, and subsequently entered France under the conditions of the France-Senegal bilateral regime (Bergues 1973).

### 2.3.2 *1986-1998:*

Italy passed its first major national-level legislation on immigration in December 1986. The *legge* 1986-943 outlined the rights of non-European Community foreign workers and formalized the "neo-corporatist" framework (Sciortino 1999) for the introduction of foreign labor that the 1961 law had sketched. A specialized division within the Ministry of Labor was responsible for keeping lists of both job vacancies and non-EU foreigners residing outside of and looking for work in Italy. This division would match foreign workers with vacancies if no native workers were available for the jobs, and provincial labor offices would then issue a work permit (*autorizzazione al lavoro*) that would allow the foreigner to apply for a visa to

enter Italy. While the law does not specify how migrant workers would obtain residence permits, it does specify that work permits were valid for two years and that loss of a job prior to the expiration of the work permit was not grounds for revoking the residence permit. Unemployed migrants were encouraged to register on lists of job seekers so that they could be matched with vacancies.

This law, while initially seen as a positive step towards the construction of a rational immigration policy, ultimately created additional pathways into irregular status. The measure allowing unemployed migrants to stay in Italy and register as unemployed was motivated by a desire to give migrant workers more autonomy from employers, but it actually created a pseudo-legal category for migrants working in the shadow economy (Sciortino 1999): in an effort to avoid paying taxes and social insurance, migrants would register as unemployed and continue working informally. The law also contained provisions for the adjustment of status of foreigners with ongoing or past irregular employment with employers willing to regularize them (Reyneri 1998); applications initially had to be submitted within three months of the law's passage, but the deadline was extended into 1988 and eventually regularized the status of more than 118,000 people. Nonetheless, many migrants did not qualify for regularization, and new arrivals added to the resident population of migrants with irregular status (Sciortino 1999).

The next Italian law on immigration sought to deal with irregular migration by tightening external controls and security procedures coupled with numerical planning of labor entries. *Legge 39* of 1990 (the "Martelli Law"), motivated in part by Italy's recent signing of the Schengen agreement and concomitant desire to reassure other European countries of the integrity of its borders, introduced visa requirements for many countries and made expulsion a tool for the management of irregular migration (Finotelli and Sciortino 2009). Indeed, it was at this time that the visa exemption for Senegal and other "immigration-risky countries" was rescinded (Sciortino 1999). In addition, the law continued the neo-corporatist recruitment of foreign labor by defining a yearly decreed quota of legal entries (Finotelli and Sciortino 2009).

In addition to these external controls, the law reformed the system of internal control by defining the conditions for access to the residence permit (*permesso di soggiorno*). Foreigners staying in Italy for purposes other than tourism needed to apply for a residence permits within eight days of arrival; the permit,

available only to those who entered legally, could last for up to two years and was renewable. The law also included a liberal regularization program open to any foreigners residing in Italy before December 31, 1989, which adjusted the statuses of 234,841 migrants (Sciortino 1999). This patchwork of restrictive controls on entries combined with rigid planning tools and a liberal regularization program led to the law's ineffectiveness. With regard to the yearly quota, many employers and foreign workers found the process cumbersome, leading to the informal hiring of irregular migrants (Finotelli and Sciortino 2009).

Growing "moral panic" (Sciortino 1999) over increasing immigration paralyzed further attempts at immigration-policy reform during most of the decade of the 1990s. The government passed an executive decree (the "Dini decree," *decreto-legge* 489) in 1995 that included both harsh border-control measures (expulsions and rejections) to please the populist right-wing *Lega Nord* (Northern League) and a regularization program to mollify the left (Sciortino 1999). The decree was not enacted within 60 days as mandated by the constitution, so it was re-issued several times over the following year with the same fate (Sciortino 1999). Nonetheless, the government went ahead with the decree's regularization program, which was stricter than the Martelli amnesty: applicants had to prove that they had been residing in Italy, regularly employed during the past six months or with an employment offer, and had paid three months of social security contributions (Levinson 2005b). Despite these more stringent conditions, the program adjusted the status of 238,000 foreign workers from 1995 to 1996 (Levinson 2005b).

The passage of *legge* 40 in 1998, also known as the Turco-Napolitano law, put an end to the legislative impasse on immigration policy. Motivated in part by the long-awaited accession of Italy to the Schengen zone, this law attempted to offer a comprehensive framework for both management and control measures (Finotelli and Sciortino 2009). The law once again organized the entry of foreign labor via a yearly quota decree. Employers would request a work permit (*autorizzazione al lavoro*) and entry visa within the quota system, potentially for a specific foreigner who could then apply for the visa abroad. Unlike previous Italian quota systems, though, the Turco-Napolitano law did not require proof of the lack of suitable Italian workers (Reyneri 2004). This requirement had effectively limited legal entries under the quota system to less than 25,000 per year before 1999, making it extremely difficult to enter Italy legally for work (Reyneri 2004).



In addition to re-establishing the quota system, the law also attempted to promote the integration of migrants by stabilizing their residence situations. Foreigners arriving for work would enter Italy with a visa based on the pre-existing *autorizzazione al lavoro* and apply for a two-year *permesso di soggiorno per lavoro subordinato* after arrival. The law defined different lengths for the *permesso* depending on the motive for the stay: six to nine months for seasonal work; one year for study; and two years for self-employment, indefinite contract employment, and family reunification. Unemployed workers were allowed to keep their residence permits if they registered as unemployed. In addition, the law introduced an indefinite residence permit (*carta di soggiorno*) accessible after five years of legal residence (Finotelli and Sciortino 2009). The implementation of the law also included a regularization program open to unauthorized immigrants present in Italy before March 27, 1998, which ultimately adjusted the status of 193,200 of over 300,000 applicants (Levinson 2005b).

While the Turco-Napolitano law promoted the legal entry, residence, and work of migrants, it also included measures to strengthen border control, make irregular entry more difficult, and facilitate expulsion via readmission agreements (Finotelli and Sciortino 2009). Despite these restrictive measures, the law was unable to deal with the strategy of visa overstaying, which was overtaking clandestine entry as an irregular migration strategy (Finotelli and Sciortino 2009).

### **2.3.3 The 2000s**

The Bossi-Fini law of 2002 (*legge* 189), passed by the second Berlusconi government, was “inspired by a strong restrictive ambition” (Finotelli and Sciortino 2009:126). The law reformed the quota and internal-control systems so as to limit legal entries. Political discretion in the definition of yearly quotas increased, with the goal of steering legal entries towards temporary, seasonal work. The law subjected residence permits to increased administrative scrutiny through decreased length, and also tied the length of the residence permit to the work permit via the *contratto di soggiorno per lavoro* (Finotelli and Sciortino 2009). This contract, signed by the employer and the employee after recruitment through the quota system, required employers to pay housing and repatriation costs and allowed foreigners to apply for a *permesso di soggiorno per motivi di lavoro*, valid one year for fixed-duration contracts and two years for unlimited-

duration contracts. This law also made renewal of residence permits contingent on having a formal work contract, potentially subjecting many migrants to spells of irregularity (Finotelli and Sciortino 2009).

In addition to limiting legal entries, the law sought to combat irregular immigration through the increasing severity of external controls. These included granting powers to the Navy to control ships at sea suspected of carrying potential clandestine migrants, increasing the maximum detention time for irregular migrants to 60 days, and levying steeper sanctions on migrant traffickers and smugglers (Finotelli and Sciortino 2009). Despite these increased external controls and the law's restrictive ambition, the legislation also included yet another massive regularization program. While framed as a "humanitarian" amnesty for undocumented caretakers of children and the elderly, the program only required work documentation in the form of three months of pension contributions and proof of continued employment (Levinson 2005b). The program adjusted the status of 634,700 of 700,000 applicants by granting them one-year residence permits, with a possible extension of six months if the migrant had lost the job and needed to look for work (Levinson 2005b). The Bossi-Fini law thus was unable to reconcile its restrictive ambitions with the structural reality of immigration to Italy, and the Berlusconi government eventually accepted the need for new workers and increased the yearly quota (Finotelli and Sciortino 2009).

Subsequent governments have not passed any major immigration legislation. A center-left government elected in 2006 campaigned on an overhaul of the system, but was unable to muster the parliamentary majority necessary to pass legislation. The return of a Berlusconi government in 2008 signaled a return to restrictionist policies, this time through the introduction of public-security measures designed to facilitate deportation of migrants convicted of certain crimes (*legge* 125-2008). A 2011 law (*decreto-legge* 89, *legge* 129) allowed additional governmental discretion in case-by-case expulsions of migrants found to be illegally residing in Italy. Finotelli and Sciortino (2009) argue that these restrictionist measures are in keeping with the trend in Italian immigration policy, which has increasingly focused on external control while ignoring the structural mechanisms—such as the size of the Italian informal economy—that sustain irregular migration in Italy. In addition, Italy's quota system acts as a de facto amnesty by allowing irregular migrants already present in Italy and working in the informal economy to apply for jobs in the formal sector and access legal status via the quota's mechanisms (Fasani 2010).

Table 2.3: Evolution of immigration policies in Italy

<b>Date</b>	<b>Name of law</b>	<b>Consequence for irregularity</b>
February 10, 1961	<i>Legge 1961-5: Abrogazione della legislazione sulle migrazioni interne e contro l'urbanesimo nonché disposizioni per agevolare la mobilità territoriale dei lavoratori</i>	<ul style="list-style-type: none"> <li>• allowed for the introduction of foreign labor through employer application to a local employment office</li> </ul>
September 17, 1966	<i>Circolare n.38, Ministero degli Affari Esteri</i>	<ul style="list-style-type: none"> <li>• Exempted Senegalese citizens from visa requirements for entering Italy</li> <li>• Required Senegalese to “regularize their position” if they intended to “settle”</li> </ul>
April 10, 1981	<i>Legge 1981-158: Ratifica ed esecuzione delle convenzioni numeri 92, 133 e 143 dell'Organizzazione internazionale del lavoro</i>	<ul style="list-style-type: none"> <li>• Ratified ILO convention on rights of migrant workers</li> </ul>
March 2, 1982	<i>Circolare del Ministero del lavoro n.14194/IR/A: Accesso all'impiego di lavoratori extracomunitari</i>	<ul style="list-style-type: none"> <li>• Froze issuance of work permits for foreigners</li> </ul>
December 30, 1986	<i>Legge 1986-943: Norme in materia di collocamento e di trattamento dei lavoratori extracomunitari immigrati e contro le immigrazioni clandestine</i>	<ul style="list-style-type: none"> <li>• Created framework for introduction of foreign labor</li> </ul>
February 28, 1990	<i>Legge Martelli 1990-39</i>	<ul style="list-style-type: none"> <li>• introduced visa requirements for Senegal and other countries</li> <li>• allowed expulsion for the management of irregular migration</li> <li>• continued recruitment of labor with yearly quota decree</li> <li>• Required foreigners to apply for residence permit within 8 days of arrival</li> <li>• Regularization program</li> </ul>
November 18, 1995	<i>Decreto-legge Dini 1995-489: Disposizioni urgenti in materia di politica dell'immigrazione e per la regolamentazione dell'ingresso e soggiorno nel territorio nazionale dei cittadini dei Paesi non appartenenti all'Unione europea</i>	<ul style="list-style-type: none"> <li>• Increased border-control measures (rejections and expulsions)</li> <li>• Regularization program</li> </ul>

	<i>Legge Turco-Napolitano 40-1998: Disciplina dell'immigrazione e norme sulla condizione dello straniero</i>	<ul style="list-style-type: none"> <li>• Organized the entry of foreign labor via a yearly quota decree</li> <li>• Defined temporary two-year residence permits for work</li> <li>• Created indefinite residence permit</li> <li>• Regularization program</li> <li>• Strengthened border control</li> </ul>
July 30, 2002	<i>Legge Bossi-Fini 2002-189: Modifica alla normativa in materia di immigrazione e di asilo</i>	<ul style="list-style-type: none"> <li>• Reformed the quota system to steer entries towards seasonal work</li> <li>• Tied length of residence permit to work permit and subjected renewal of residence permit to a formal work contract</li> <li>• Increased severity of external controls</li> <li>• Regularization program</li> </ul>
June 23, 2011	<i>Decreto-legge 2011-89</i>	<ul style="list-style-type: none"> <li>• Allowed additional governmental discretion in case-by-case expulsions of migrants found to be illegally residing in Italy</li> </ul>

## 2.4 Spain

### 2.4.1 1970s-1999

Like Italy, Spain was traditionally a country of emigration and thus little attention was paid to legislation regulating immigration before the 1980s. Spain shares a number of other factors with Italy in the evolution of immigration policy, including the lack of a historical relationship with Senegal and many (although not all, as Latin-American migration to Spain attests) of the countries that eventually would send it migrants; recourse to frequent regularization programs as a method for dealing with recurrent irregular migration; and the economic underpinnings of large secondary and informal sectors (Reyneri 2003).

Much of Spain's legislation on internal control mechanisms arose prior to the increase in the foreign-born population in the 2000s and prior to Senegalese migration in the 1990s. A Franco-era decree<sup>9</sup> took some steps to define the regulations governing the entry of foreigners: valid passports were required, and those foreigners who were required to have a visa had to apply for it prior to arrival (see for a synthesis of the evolution of immigration policy in Spain). Although there is no existing list of nationalities subject to visa requirements at that time, experts have stated that Senegalese were certainly subject to this requirement<sup>10</sup>. Unlike both France and Italy, then, Senegalese were always at least formally required to have a visa to enter Spain.

The first national-level law on immigration was passed in 1985 in response to Spain's integration into the European Community and the wariness of Spain's European neighbors regarding the permeability of its borders (Calavita 1998, 2003). The *Ley Organica 7/1985* on "the rights and liberties of foreigners in Spain" required all foreigners entering Spain to have an entry visa, with exceptions for those nationals exempted under international treaties. Foreigners staying for longer than 90 days were required to have a residence permit (*permiso de residencia*), the period of validity of which could not exceed five years. Foreigners wishing to establish residency for work were required to submit a formal work contract from an employer and apply for a work permit (*permiso de trabajo*) in addition to a residence permit.

While issued by separate Ministries, the residence and work permits would be of the same duration and in the form of a single document, and both could be renewed during a single procedure. Temporary work authorizations for durations of less than 90 days did not require a residence permit, but were still contingent on legal residence. The law also spelled out the legal grounds for expulsion of migrants, including lack of a residence permit or working without a work permit. This law did not, however, contain any provisions for family reunification or permanent residence (González-Enríquez 2010), although the application decree of 1986 did define a family-reunification visa. In addition to defining these external and internal mechanisms

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<sup>9</sup> A *decreto* (decree) is an administrative action used by the executive branch to establish regulations that make it possible to carry out existing law and thus has a normative rank below that of a *ley* (law) (Mezger and González-Ferrer 2013).

<sup>10</sup> Amparo González-Ferrer, personal communication, November 15, 2012.

of control, the law also defined the rights of foreigners, but conditioned the granting of these rights on legal residence in Spain (Calavita 1998).

These measures were thus restrictive in nature, and Calavita (1998) argues that the provisions of this law that required visas, residence permits, and work permits immediately plunged the majority of immigrants residing in Spain at that time into irregular status. The law thus also contained provisions for a regularization program, eligibility for which was conditional on migrants being able to have legitimate continuing work contracts or other formal means of support and to have resided in Spain before July 24, 1985 (Levinson 2005c). Only 44,000 migrants applied for regularization under this program (between 25% and 50% of those eligible to do so), and only 23,000 were able to successfully adjust status; the program was also criticized for making it difficult for immigrants to renew their regularized status, meaning many subsequently fell back into irregularity (Levinson 2005c).

While no new immigration legislation would be passed before the turn of the century, the Spanish government pursued piecemeal reforms through other legal mechanisms. Due in part to the failure of the 1985 regularization program, the Spanish government, through a decision in the Council of Ministers communicated by a resolution, carried out another regularization program in 1991. Although not part of a legislative reform, this administrative action recognized the limitations of the previous approach by specifically targeting migrants who had previously possessed a residence permit; the measure thus sought to resolve some of the ambiguity introduced by the difficulty in renewing regularized status. Additional requirements were an ongoing formal work contract or self-employment in a lucrative enterprise, and residence in Spain prior to May 15, 1991 (Calavita 1998). Almost 110,000 migrants were regularized by this program, out of an applicant pool of 135,000 (Levinson 2005c).

The Spanish Council of Ministers again took a non-legislative route to the reform of immigration policy when it introduced a quota system for foreign workers in 1993. This initial foray defined three sectors where local labor was deemed to be lacking—agriculture, construction, and basic services—and defined the mechanisms by which foreign workers could be recruited to fill vacancies (Calavita 1998). The system only managed to fill 5,220 of the 20,600 slots set aside, mostly because of administrative hurdles that employers

were unable or unwilling to jump over (Calavita 1998). Rules were subsequently loosened, and the government continued to define a quota for foreign recruitment throughout the 1990s.

In 1996 the Spanish government issued a decree (*Real Decreto* 155/1996) specifying regulations for the application of the 1985 law. This decree defined multiple kinds of entry visas, and made the issuance of residence and work permits dependent on having entered with the corresponding type of visa. The quota system for the recruitment of foreign labor was continued. The internal control mechanisms remained similar to those defined in the 1985 law, with the exception of the introduction of permanent residence and work permits, which could be granted to a foreigner who had lived and worked in Spain continuously and in a regular situation for at least five years. These permanent permits were valid for five years and automatically renewable. Solé and Parella (2003) argue that the introduction of these permits was an important step towards recognizing the permanent nature of immigration to Spain in that it recognized migrants' rights to settle and improve their working conditions. Finally, the decree also included a regularization program targeted specifically at foreigners who had fallen into irregularity after having gained residence and work permits through previous regularization programs (Reyneri 2003), which succeeded in adjusting the statuses of 21,300 foreigners (Levinson 2005c).

#### **2.4.2 2000-2008**

The start of the 21<sup>st</sup> century saw a flurry of immigration legislation in Spain, and the initial trend was towards increased tolerance of irregular migrants. A new Organic Law (*Ley Organica* 4/ 2000) on the “Rights and Freedoms of Foreigners and their Social Integration” was passed by the opposition left-wing coalition in January 2000 and was mostly concerned with protecting the rights and facilitating the integration of migrants in Spain. The law recognized the enduring presence of migrants with irregular status in Spain: although it defined irregular residence and work as serious infractions punishable by a fine, they were not grounds for expulsion (Calavita 2003). Additionally, the law granted a wide array of social rights to education, political participation, and health care to both documented and undocumented migrants as long as they were registered in the *Padrón Municipal* (González-Enríquez 2010). This provision meant an end to the statistical invisibility of irregular migrants in Spain. Huge numbers of irregular migrants

registered with the *Padrón*, leading to the realization that upwards of 50% of non-EU foreigners were in Spain illegally as of 2003 (González-Enríquez 2009).

For internal control, the law maintained the system of temporary residence and work permits for stays of longer than 90 days, but increased their length of validity to up to five years. In addition, the law created a permit for permanent residence for foreigners with five years of temporary residence and a permanent work permit for foreigners who had renewed temporary permits for five years in a row. Any foreigner with two uninterrupted years of residence in Spain could be granted a temporary residence permit, conditional on registration with the municipal authorities. In addition, the law prescribed another regularization program, open to foreigners residing in Spain before June 1, 1999 who had either possessed or applied for a residence or work permit in the three previous years. The program eventually regularized 153,463 foreigners (Levinson 2005c). The law also formalized the quota system introduced in the 1996 decree, making legal immigration for work possible, in theory.

A counter-reformation of this law came quickly, however, in the form of another Organic Law (*Ley Organica 8/2000*) on “alien affairs,” which was approved in December 2000 and came into effect in January 2001. The center-right Popular Party had won an outright parliamentary majority in March 2000, and made the reform of the liberal immigration law from January a public issue. The reform law succeeded in rolling back some of the more lenient provisions of its predecessor: expulsion was reinstated as a sanction for irregular residence or work, and the period of continuous residence after which irregular migrants could gain a temporary residence permit was increased to five years from two. There were also changes to the system of internal control: temporary residence permits were contingent on possessing the appropriate administrative authorization to work (*autorización administrativa para trabajar*), while the law also stated that a residence permit was required in addition to a work permit. In addition, renewal of the work permit was only possible with an ongoing work contract.

These provisions made it more difficult for migrants, often working in the informal economy, to access residence permits and also made gaps in legal residence possible for migrants possessing a work permit. The law reaffirmed the continuation of the quota system, and called for a new amnesty program targeted at



those who were denied regularization during the 2000 amnesty because they had not resided in Spain prior to June 1, 1999. This re-examination resulted in the regularization of 232,674 foreigners (Kraler 2009). The law also allowed the regularization of status for reasons of “*arraigo*” (rootedness), and an additional regularization program between June and August adjusted the status of 13,735 foreigners, who had to prove residence in Spain prior to January 23, 2001 (Lorenzo 2002).

By 2003, the proportion of foreigners residing in Spain without a residence permit is estimated to have reached over 50%, and public concern about irregular migration was growing (González-Enríquez 2009). The center-right ruling party and the leftist opposition agreed to another reform of the 2000 law on foreigners. This reform law (*Ley Organica 14/2003*) translated concerns about irregular migration into new restrictive measures. It allowed the Interior Ministry to access the data on foreigners contained in the *Padrón* for police purposes (although the Ministry has not yet done so), and required foreigners to renew their *Padrón* registration every two years (González-Enríquez 2009). The law specified new categories of visas, including a residence visa that precluded work and a work and residence visa for foreigners wishing to work in Spain. A work and residence visa would be necessary for the granting of an *autorización administrativa para trabajar*, which would allow a migrant to reside in Spain for its duration, effectively creating a single permit (even though migrants were still required to obtain residence permits). The possibility of acquiring a residence permit based on the amount of time spent in Spain (two years in Law 4/2000, and five years in Law 5/2000) was eliminated completely; ongoing regularization was available only through a provision for *arraigo* (González-Enríquez 2009).

The socialist party won the general election in March 2004 and issued additional regulations for the application of the Foreigners Law in August of the same year (Real Decreto 2393/2004). The regulations laid out in detail the link between different categories of visas and the residence and work permits to which they were linked. Employers wishing to hire a foreigner were required to submit applications for work permits while the foreigner was abroad, who could then apply for a work and residence visa, which would then allow temporary residence in Spain. The law specified the individual regularization procedures associated with *arraigo*, which could be for either social or work reasons. For regularization for social attachment, foreigners had to live in Spain for three years and prove that they had either a work contract or

“social insertion” in their place of residence as certified by a report from city hall or from legal migrants to which the foreigner was related. Another provision for workplace rootedness allowed foreigners to adjust their status after living in Spain for two years with a labor relationship with an employer for at least one year.

Both of these individual regularization procedures would result in the issuance of temporary residence permits. In addition to these individual regularization mechanisms, the regulations included a “normalization” program designed to address Spain’s large underground economy (González-Enríquez 2009). Employers had to apply for the regularization of their foreign workers with the guarantee of a formal contract with a validity of at least six months; foreigners had to be registered with the municipality and have resided in Spain since six months prior to the passage of law 2000/4. Carried out between February and May 2005, the program received 700,000 applications, of which 578,000 were accepted, with 550,000 signing up to begin paying into social security (Levinson 2005c). Finally, the regulations reformed the quota system once again: it emphasized hiring migrants in their country of origin and published a quarterly list of openings by province (González-Enríquez 2009).

#### *2.4.2.1 The arrival of the cayucos in the Canary Islands and Spain’s “Plan África”*

The year following this regularization program saw the arrival in rickety fishing boats of over 30,000 clandestine migrants on the shores of Spain’s Canary Islands. The boats departed from spots on the coast of West Africa in Mauritania, Senegal, and Guinea-Bissau and carried sub-Saharan Africans as well as, in far lesser proportion, Pakistanis, Indians, Afghans, and Iraqis (Charles 2007). Spanish authorities quickly became concerned about the possibility of a massive “invasion” of undocumented Africans and rushed to put into place an “Africa Plan” in early 2006 that would stop this unwanted flow (Charles 2007; Gaglielli 2008). This plan included increased cooperation with migrant-sending countries in matters of border surveillance and readmission of irregular migrants in exchange for development assistance (Gaglielli 2008). An initial agreement between the Senegalese and Spanish governments in May 2006 paved the way for the repatriation of 623 Senegalese nationals identified in the Canary Islands.

The first flight containing 99 deported Senegalese in handcuffs migrants landed in Dakar in early June, and the press coverage of this event forced the Senegalese government to temporarily stop repatriations (Gagrielli 2008). The Spanish government promised a €20 million loan to Senegal on June 16, and additional deportations of 189 Senegalese migrants were organized between June 19 and 24. In addition, Senegal agreed to cooperate with Spain in patrols of Senegalese territorial waters. Dakar and Madrid signed a series of formal bilateral accords in December 2006 on the emigration of minors and the fight against criminality, but were unable to conclude treaties on cooperative migration management or readmission of irregular migrants (Gagrielli 2008). The Spanish quota for 2008 put aside spots for Senegalese workers, and at least 140 Senegalese were selected for 12-month work contracts in Spain between 2006 and 2007 (Charles 2007).

Table 2.4: Evolution of immigration policies in Spain

<b>Date</b>	<b>Name of law</b>	<b>Consequence for irregularity</b>
February 14, 1974	Decreto 522/1974, de 14 de febrero, por el que se regula el régimen de entrada, permanencia y salida de los extranjeros en España	<ul style="list-style-type: none"> <li>• Required valid passport and pre-arrival visa for entry</li> </ul>
July 1, 1985	<i>Ley Organica 7/1985 Sobre derechos y libertades de los extranjeros en España</i>	<ul style="list-style-type: none"> <li>• required all foreigners entering Spain to have an entry visa and to apply for a residence permit for stays exceeding 90 days</li> <li>• required submission of formal work contract and work permit for employment</li> <li>• Expulsion of migrants possible if lacking residence and/or work permit</li> <li>• Rights conditional on legal residence</li> <li>• Regularization program</li> </ul>
1991	Administrative action	<ul style="list-style-type: none"> <li>• Regularization program</li> </ul>
1993	Decision by Council of Ministers	<ul style="list-style-type: none"> <li>• introduced a quota system for foreign workers</li> </ul>

February 2, 1996	<i>Real Decreto</i> 155/1996	<ul style="list-style-type: none"> <li>• defined multiple kinds of entry visas</li> <li>• made the issuance of residence and work permits dependent on having entered with the corresponding type of visa</li> <li>• continued quota system</li> </ul>
January 11, 2000	<i>Ley Organica</i> 4/ 2000: Sobre derechos y libertades de los extranjeros en España y su integración social	<ul style="list-style-type: none"> <li>• Irregular residence and work not grounds for expulsion</li> <li>• Granted social rights to documented and undocumented migrants with <i>Padrón</i> registration</li> <li>• Increased validity of temporary residence and work permits to five years</li> <li>• Created permanent permits for foreigners with five years of renewals of temporary residence or work permits</li> <li>• Granted temporary residence permits to foreigners with two uninterrupted years of residence</li> <li>• Formalized quota system</li> <li>• Regularization program</li> </ul>
December 22, 2000	<i>Ley Organica</i> 8/2000: de 22 de diciembre, de reforma de la Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social.	<ul style="list-style-type: none"> <li>• reinstated expulsion as a sanction for irregular residence or work</li> <li>• increased to five years period of continuous residence for granting of temporary residence permit</li> <li>• temporary residence permits were contingent on possessing the appropriate administrative authorization to work</li> <li>• renewal of work permit contingent on ongoing work contract</li> <li>• Continued quota system</li> <li>• Regularization program</li> <li>• Introduced regularization for <i>arraigo</i></li> </ul>

November 20, 2003	<i>Ley Organica 14/2003</i>	<ul style="list-style-type: none"> <li>• required foreigners to renew their <i>Padrón</i> registration every two years</li> <li>• required combined work and residence visa for entry for work</li> <li>• eliminated ability to acquire residence permit based solely on duration of residence, but <i>arraigo</i> provision retained</li> </ul>
December 30, 2004	<i>Real Decreto 2393/2004</i>	<ul style="list-style-type: none"> <li>• laid out in detail the link between different categories of visas and the residence and work permits</li> <li>• specified the individual regularization procedures associated with <i>arraigo</i></li> <li>• “Normalization” program</li> </ul>
July 2006	<i>Plan África</i>	<ul style="list-style-type: none"> <li>• cooperation with migrant-sending countries in matters of border surveillance and readmission of irregular migrants</li> <li>• increased development assistance</li> </ul>

## 2.5 Conclusion

Contexts of reception for Senegalese migrants in Europe have thus varied widely both within destinations over time and between destinations. It may be useful to recall Portes’s typology of negative, neutral, and advantaged contexts of reception (Portes and Böröcz 1989; Portes and Rumbaut 2006) to make sense of this variation. In France, there has been an evolution from colonial-era political and personal “assimilation” of Senegalese into the French nation; to a post-independence preferential regime that put few restrictions on the ability of Senegalese to enter, reside, or work in France; to an alignment of the bilateral relationship with Senegal with the general immigration-control regime via the gradual erosion of the preferential regime. Contexts of reception in France for Senegalese have thus varied from somewhat advantaged in the colonial and immediate postcolonial periods, to neutral with the first erosions of the preferential regime, to negative when Senegalese were fully subject to the restrictive general system of immigration control. This restrictive system has furthermore been marked by discrimination against and stigmatization of Africans

(Adida, Laitin, and Valfort 2010) and somewhat blatant attempts to limit flows of migrants from Africa (Schain 2008). While France seems to have acknowledged the formerly privileged status of Senegalese in its most recent bilateral migration-management accord with Senegal, the basic parameters of the context of reception remain restrictive and negative.

The contexts of reception in Italy and Spain have differed from those in France, especially in their timing and in the imposition of immigration restrictions. Attitudes of the host society towards irregular migrants have also varied over time and between countries. These southern European contexts of reception were never advantaged for Senegalese migrants, with the possible exception of the pre-1990 period in Italy when Senegalese were exempt from visa requirements. Contexts of reception in these two countries have thus mostly been negative with regard to Senegalese migrants, in that they faced the same set of increasingly restrictive immigration-control measures as most other migrants. These differences underscore the importance of incorporating multiple contexts of reception into analyses of the production and consequences of irregular migration.

This chapter has shown that these variations in contexts of reception have produced a variety of socio-legal configurations that give rise to different pathways of irregularity. Senegalese in France had de facto regular status for much of the 1960s and 1970s in that they did not need explicit authorization to enter or reside in France and were able to take advantage of common post facto regularization procedures. Irregularity became more common among Senegalese as this preferential regime crumbled, and the massive participation of Senegalese and other Africans in the *sans papiers* movement in the mid-1990s highlighted the extent to which changes in immigration-control legislation had created precarity in their legal statuses.

Irregularity seems to have been a consistent component in contexts of reception in Italy and Spain, as their frequent and massive regularization programs demonstrate. Much of this irregularity seems to stem from the mismatch between restrictive immigration-control measures and structural demands for cheap, low-skilled labor (Finotelli and Sciortino 2009; Reyneri 2003; González-Enríquez 2009), echoing similar dynamics in the US (Portes 1978; Massey, Durand, and Malone 2002).

These dynamics illustrate that irregularity is very much a manufactured state rather than a characteristic of the migrants themselves. It is produced when governments impose rules and regulations on flows that arose largely for economic reasons and were extended by social mechanisms of network formation. These legal impositions are undertaken mostly in response to shifts in domestic political sentiment over time and are uninformed by any understanding of migratory processes themselves, yielding policies and regulations that are inconsistent over time and often contradictory at any given moment, thus producing irregularity.

Migration that is judged legal at one time can thus become illegal at a later date not because of any change among migrants or the basic process of immigration, but because of arbitrary shifts in policy made without regard to the practical realities of international migration.

## **Chapter 3. Pathways into irregular legal status of Senegalese migrants in Europe**

### **3.1 Introduction**

“Illegal” migration is a major concern in most immigrant-receiving countries, yet most policy and much research on the topic is hampered by a lack of data and a misunderstanding of the origins and trajectories of so-called undocumented migrants’ legal statuses. Irregular migration is difficult to measure empirically, as it, by definition, escapes the detection of most states’ immigration-control bureaucracies. In addition, many surveys have difficulty in tracking down what is a mostly hidden population. This lack of data has undoubtedly contributed to an even bigger problem in the study of irregular migration: the conflation of undocumented border crossing with the phenomenon of irregular migration. In reality, clandestine border crossing is but one pathway among many into irregular legal status, and may not even be the most important one in many countries. Furthermore, immigration policies actively produce these pathways to irregularity through restrictive control mechanisms. A more thorough understanding of the implications of irregular migrations for both destination societies and for the migrants themselves must therefore study multiple pathways into irregular status.

An approach that is sensitive to the multiplicity of pathways and the role of immigration policies in producing them is especially crucial for understanding irregularity in European destinations. Restrictive immigration-control policies with an emphasis on border control have become the norm in Europe, yet the continent hosts an increasing population of irregular migrants and many countries embark on repeated regularization programs to adjust irregular migrants’ legal status. The contradictions inherent in this system may stem from a misapprehension of the nature of irregular migration: research has shown that overstaying after legal entry may be a more important pathway to irregularity than illegal entry, and other policies may facilitate transitions to irregular status while the state pursues regularization programs.

Migration from sub-Saharan Africa in particular has fallen victim to the confusion surrounding the multiplicity and legal production of irregularity. Highly mediatized arrivals of African migrants in leaky fishing boats on European shores in 2006 prompted fears of an “African invasion” and a flurry of restrictive measures to stop it, yet the image of Africans as clandestine migrants both hides the heterogeneity of



African migrants' legal situations and obscures the role of European states' immigration policies in producing these situations.

This chapter will attempt to understand the multiple pathways into irregular status produced by European immigration policies. It will argue that irregularity is “legally produced” by immigration policies and will advocate for a conceptualization of legal status that is context-dependent, multidimensional, and longitudinal. The empirical focus will be on the pathways of entry without a visa, overstaying following a legal entry, and “befallen irregularity,” or transitioning from regular to irregular legal status. The chapter will draw empirically on the experience of Senegalese migrants in France, Italy, and Spain. Senegalese have a strong presence in these three contexts of reception, which display variation both within and between countries and over time in their immigration-control mechanisms.

This chapter capitalizes on variation in the forms of irregularity and contexts of reception to ask the following questions: What are the correlates of each of these pathways for Senegalese migrants in France, Italy, and Spain? What role does context of reception play in shaping the pathways of irregularity? Are the pathways linked, i.e., to what extent is irregularity sticky or path dependent? Given the diversified profile of Senegalese migrants in these different destinations, what role do various forms of capital play in steering migrants into the various pathways of irregularity? Given the role of policies making regular status contingent on links to family or the formal labor market, what role do these social institutions in the destination country play in structuring these pathways?

The chapter is organized as follows. Section 3.2 reviews the literature on definitions and conceptualizations of migrant irregularity, and outlines the empirical pathways into irregular status to be studied. Section 3.3 offers hypotheses: pathways will be structured by contextual variation, and migrants will navigate them with the help of access to forms of capital and links to other social institutions. Section 3.4 describes the data and methods. Section 3.5 presents the chapter's findings: context and forms of capital are more strongly related to pathways that occur more closely in time to the act of crossing a border, while changes in legal status are more closely related to links to social institutions and prior legal statuses. Section 3.6 discusses these results and section 3.7 concludes.

## 3.2 Literature review

### 3.2.1 *Migrant irregularity*

“Irregular” is often used interchangeably with “undocumented,” “unauthorized,” “clandestine,” or “illegal” to describe both an aggregate process of migration and an individual attribute of migrants (Donato and Armenta 2011). While the terms seem to describe similar phenomena, migration scholars argue that different terms have different underlying historical specificities and political resonances (Düvell 2008). Scholars increasingly avoid the terms “illegal migration” and “illegal migrant” because of their implicit criminalization of migrants; “illegal” is often used as a technical term to describe entering a country in violation of the law or as a description of a condition (e.g., “illegal work”) (Triandafyllidou 2010a). “Unauthorized” is often used in the US context (Düvell 2008), but does not necessarily adequately describe the situation of the foreign-born population in a given destination as not all foreigners need explicit authorization to enter, reside, or work in a destination country (Triandafyllidou 2010a). “Undocumented” is also limited in its descriptive capacities by the fact that not all migrants who enter, reside, or work without legal permission actually lack documents. “Irregular” is often used in the European context and has broad connotations that can refer to both flows and stocks of migrants and can encompass a variety of legal arrangements (Triandafyllidou 2010a). This study thus uses the term “irregular” to describe statuses that arise from migration that occurs outside of the legally defined framework for entry, residence, or work of foreigners in a destination country, and, by extension, migrants that have engaged in such entry, residence, or work<sup>11</sup>.

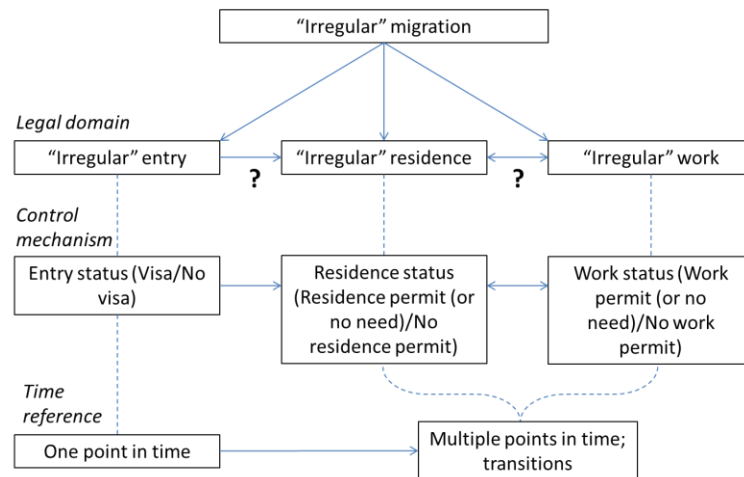
In addition to these lexical nuances surrounding irregular migration, the concept of irregularity is plagued by lack of precision in its categorical and temporal dimensions. Figure 3.1 illustrates the common

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<sup>11</sup> In this paper, I use “legal status” to refer to the status that migrants possess vis-à-vis the legal framework that governs their entry, residence, or work in a given country. I use “fully regular status” (or “fully regular legal status”) to denote possession of all required authorizations to live and work in a given country, while “fully irregular status” (or “fully irregular legal status”) denotes the lack of all required authorizations to live and work in a country. This contrasts with other academic work where “legal status” can refer to what I call “fully regular status.” Thus, “legal” here simply refers to the domain of the status and does not indicate the possession of authorization. An analog would be the term “socioeconomic status,” which describes a person’s status in the socioeconomic realm; additional qualifiers (such as “high” or “low”) would be required to describe an individual’s status.

conceptual problems. Much media, policy, and even academic attention to “irregular” migration actually focuses on the sole legal domain of entry. This may be due in part to the influence of the US case on perceptions of migration: unauthorized border crossing dominates popular and academic discussions of irregularity in the US, and this concept is exported to other contexts. Thus, irregular entry comes to stand for irregular migration, and irregular migrants are those that entered without the required authorization.

Figure 3.1: Conceptual scheme of irregularity



In reality, as Figure 3.1 illustrates, irregularity of legal status can arise not only from the legal domain of entry but also from the legal domains of residence and work; lack of authorization in *any* of these legal domains can generate irregular status. A proper understanding of irregularity thus must pay attention to multiple legal domains that give rise to categorical complexity of statuses, and also to the mechanisms of immigration control (e.g., documents such as visas and residence permits) that mark migrants as irregular (Brochmann 1999). Furthermore, these multiple legal domains introduce temporal complexity: while irregular entry is defined at one point in time, irregularity of residence and work authorizations is defined at multiple points in time during a migrant’s trip. Irregularity as a concept must thus include multiple legal domains and multiple statuses over time.

The categorical and temporal complexity of irregularity illustrated in Figure 3.1 demonstrates that there are multiple possible pathways into irregular status. Unlike the U.S. context, where irregular entry is the

predominant pathway into irregular status, the European context displays a variety of pathways, including unauthorized entry, work in violation of residence conditions, refused asylum application, and irregularity by birth. In addition, “status flows,” or transitions between various kinds of statuses are quite common and include overstaying and befallen irregularity (Düvell 2008; Triandafyllidou 2010a; Düvell 2011b). Furthermore, unauthorized border crossing, while it garners a fair share of public and policy attention in Europe, is far from the most common pathway into irregular status. Instead, research has shown that overstaying is by far the predominant pathway in most European countries (Kraler 2009; Finotelli and Sciortino 2013), underlining the need for a theoretical and analytical approach that accounts for transitions between legal statuses over time.

### **3.2.2 *Conceptual approaches to irregularity***

#### **3.2.2.1 *The legal and social production of irregularity***

While the preceding discussion highlights the multidimensionality of irregularity and the multiple pathways by which migrants access irregular status, many sociological investigations of irregular migration rely on a simple dichotomy of legal status. This is especially true in the United States, and even though the American research tradition has produced useful findings regarding undocumented migration in the US context of reception (Borjas and Tienda 1993; Phillips and Massey 1999; Kossoudji and Cobb-Clark 2000; Portes and Rumbaut 2001; Alba and Nee 2003), scholars have recently begun to argue for more nuanced conceptualizations of irregularity. Research focusing on the social construction of legal-status categories allows both an understanding of how irregularity is produced by historical and sociolegal processes (De Genova 2002) and an expanded conceptualization of irregularity that includes both precarious categories and the dynamism of irregularity over time (Goldring, Berinstein, and Bernhard 2009).

Scholars researching the “legal production of illegality” (Goldring et al. 2009) have drawn on the simple idea that the notion of irregularity is meaningless without reference to the legal framework in which it is defined: irregular status as a transgression is impossible without the legal framework defining it as such (Sciortino 2004). Research on the production of illegality has shed light on how the seemingly common-sense notion of migrant irregularity is embedded in concrete historical processes and institutions such as laws, policies, labor markets, and other social institutions in destination countries (Calavita 1998; De

Genova 2002). Immigration-control policies dictate the channels of legal entry, residence, and work in the destination country and the bureaucratic mechanisms that regulate both these channels and access to other social institutions (such as health care, education, and the possibility of family reunification). These policies and their translation into concrete bureaucratic mechanisms of control (such as visas, residence permits, and work permits) thus set the parameters for the irregular statuses that migrants may experience and the pathways by which they access them. Irregular status thus entails a social relation to a state and its policies and control mechanisms, which themselves have a history within the political process of the state (Sciortino 2004).

Contextual variation is thus crucial in elucidating how different forms of irregularity emerge from different social, legal, and political configurations, especially in a policy context as turbulent as the one in Europe, where frequent changes in immigration legislation and policy are the norm. For example, Düvell (2011a) reports that at least 52 separate laws, codes, decrees, and circulars define French immigration law, and turnover in political leadership has led to 20 immigration laws being adopted since 1980 (Wihtol de Wenden 2010). While some of this turbulence in policy has accompanied the transposition of treaties or European Union directives into national laws (as was the case with major Italian and Spanish immigration legislation in the 1990s), individual countries have also fought to maintain sovereignty in much immigration policy making; consequently, there is no commonly accepted definition of irregularity across European countries (Düvell 2011a). This policy turbulence can change the parameters of regularity by making renewal of statuses more difficult or by revoking some forms of status altogether. As a result, migrants may experience categorically complex legal statuses (e.g., legal residence without legal right to work) along with complex trajectories of legal status over time arising from frequent transitions.

The in-depth review of the evolution of immigration policies in France, Italy, and Spain in chapter 2 highlighted the turbulence of immigration policies in these three countries. Table 3.1 sketches these evolutions and illustrates how policy variation over time and across destinations variation in irregularity over time and across destinations creates different pathways of irregularity. France, for example, established a preferential bilateral immigration control regime with Senegal that allowed for free circulation and establishment in each country for nationals of the other. While this was at heart an attempt to maintain

Table 3.1 - Legal parameters of irregularity for Senegalese migrants in France, Italy, and Spain, 1960-2008

	1960s	1970s	1980s	1990s	2000s		
<b>France</b>	<i>“Preferential regime”</i> : no entry, residence, or work permits required		<i>Toward alignment with common regime</i> : residence and work permits required; no entry visa required	<i>Alignment with common regime</i> : visas required, long stay and work permit linked			
	Bilateral treaty (1960)	Bilateral treaty (1964)	Bilateral treaty (1974)	Unilateral suspension of visa clauses of binational treaty (1986)	Bilateral treaty (1995)		
	<i>Regularization Programs</i>						
<b>Italy</b>	No national immigration policy: regulations fixed by administrative decrees and circulars			Law 943: employer-nominated entry	<i>Martelli Law</i> : established entry visa for specified countries	<i>Testo Unico</i> : Schengen visas; long-term <i>carta di soggiorno</i>	<i>Law 189: contratto di soggiorno-lavoro</i> (residence permit dependent on work permit)
		<i>Circolare n. 38</i> : Senegalese dispensed from visa requirement, but must regularize situation upon arrival if intent is to stay					
	<i>Regularization Programs</i>						
<b>Spain</b>	No national immigration policy		<i>Decreto 522/1974</i> : passport and visa required for entry	<i>Ley de Extranjería</i> : entry visas, residence, and work permits required		<i>Ley Organica</i> : separate residence and work permits	
	<i>Regularization Programs</i>						

French colonial privilege (Donovon 1988), it allowed Senegalese to enter, reside, and live in France without the need for explicit authorization (Marot 1995). Over time, France aligned its bilateral agreements with Senegal with the common immigration-control regime, thus creating irregularity among Senegalese migrants who had not previously been subject to restrictive policies (Lochak 1997).

This table also highlights the important variation that exists between destinations at any historical moment. Whereas all three countries have experienced a general evolution towards restrictive immigration-control policies, the features and timing of these policies have not been uniform. France's stiffening of immigration control, for example, occurred at the same time that the southern European countries were dealing with growing foreign-born populations via regularization programs, which may have created new pathways of irregularity in all countries.

The literature on the legal production of irregularity also highlights the role that other social institutions play, either independently or in interaction with immigration-control policies, in creating forms of irregularity. Social institutions are symbolic blueprints that organize people's roles in major areas social life, including the polity and the economy (Portes 2010). In addition to the state's immigration-control apparatuses, social institutions such as the organization of work and the family are likely to have impacts on migrants' legal statuses. State immigration control policies can obviously regulate access to the formal labor market, but the existence of widespread informal employment opportunities may make it easier for migrants to circumvent formal mechanisms of control (Reyneri 1998); the structure of the labor market is thus another contextual factor that can influence the pathways of irregularity. Other social institutions in the destination society can also help create frameworks for irregularity: the ability of migrants with irregular status to access health care and educational systems may make some forms of family irregularity more likely. This has been suggested in the Spanish case, where legal protection of social rights for migrants with irregular status has made irregular residence and work less risky (González-Enríquez 2009; González-Ferrer 2011a). The social institution of the family itself may also shape pathways of irregularity. Some contexts might promote irregular forms of reunification of family members of migrants, as in Spain where waiting periods imposed on work authorizations for reunified spouses may incentivize bypassing legal reunification channels (González-Ferrer 2011b). Still other policy regimes might facilitate accessing

regular status on the basis of “entitlements” in immigration legislation (Kraler 2009) such as familial links, as is the case for parents of minor children born in France since the passage of the Chevènement law in 1998 (Lessault and Beauchemin 2009).

### 3.2.2.2 *Multidimensionality of irregularity*

It is clear from the literature that policies and institutions in the destination society constitute a legal and social framework for the pathways of irregularity. The literature also emphasizes that these frameworks create the conditions for a multiplicity of forms of irregular status, and thus responds to a call for research that acknowledges a continuum of legal statuses and studies transitions between different kinds of legal status (Coutin 1998; Massey and Capoferro 2004; Menjívar 2006).

In disaggregating binary oppositions of regular/irregular status (Donato and Armenta 2011), research has shown that there are a multitude of “precarious” or “liminal” statuses in between the two poles of documented and undocumented and a variety of pathways into these statuses (Menjívar 2006; Düvell 2008; Goldring et al. 2009). Much of this research has focused on non-US contexts of reception where undocumented border crossing is not the only, or even the most important, pathway to irregularity. Goldring and colleagues (Goldring et al. 2009; Goldring and Landolt 2011), for example, propose the concept of “precarious legal status,” which highlights the multiple forms of impermanent and insecure status that migrants in Canada face. They find that Canadian immigration policy offers several avenues for authorized entry and that migrants often become irregular by losing this authorization once in the country. Their research has also examined transitions between legal statuses and suggests that some pathways of irregularity are more difficult to escape than others (Goldring and Landolt 2011). Canadian immigration-control policy thus produces multiple pathways into irregularity via this multiplicity of precarious statuses. This echoes findings in other contexts of reception, particularly those of southern Europe where “irregularizing” policies are the norm (Calavita 1998; Schuster 2005).

Other studies offer different typologies, but retain the emphasis on complex and multidimensional trajectories of legal status that reflect the contextual specificities of different destinations. Kraler (2009) outlines thirteen different “dimensions of illegality” stemming from lack of entry, residence, or work



authorization across countries of the European Union. Jandl (2004) employs distinctions between entry, residence, and work to generate a typology that includes six categories of clandestine existence and argues that no accurate accounting of illegal migrant flows and stocks can occur without such a fine-grained conceptualization. Ruhs and Anderson (2010) distinguish between compliance, semi-compliance, and non-compliance in examining the labor-market participation of immigrants in the United Kingdom. These studies illustrate that authorizations in different legal domains can combine to create mixed, precarious, semi-irregular, or in-between statuses and that migrants can experience transitions over time between a variety statuses (Düvell 2011b, 2011a). Instead of a bright, stable boundary between regular and irregular status, there is a fuzzy threshold that shifts over time. The categorical multidimensionality and temporal instability of irregular statuses allow an examination of multiple pathways into irregularity over the course of migrants' trajectories.

### *3.2.2.3 Incomplete state control and migrant agency*

This expanded conceptualization of irregularity that is both dynamic and contingent on contextual factors such as legal frameworks and policies allows a more refined understanding of how irregularity is produced. At the same time, much recent research has also insisted on migrants' agency in navigating the laws and policies that set the parameters of their legal statuses. As Sciortino (2004) points out, state claims of control of immigration are never complete: strong policies can fail when the social infrastructure of immigration is robust enough to offer migrants ways of circumventing control mechanisms. This social infrastructure includes individual and collective resources, such as financial, human, social and migration-specific capital (Massey and Espinosa 1997). Research has shown access to these resources to be important at many points in the migration process, including the mode of migration and the legal integration into the destination society (Massey et al. 1998; Massey and Espinosa 1997; Singer and Massey 1998; Portes and Rumbaut 2006).

Migrants can draw on different kinds of resources in their interactions with legal institutions and bureaucracies to influence the process of categorization and documentation. Coutin (1998) argues that migrants, far from being passive in the face of immigration laws and policies, actively interpret and react to such contextual constraints; this engagement allows migrants not only to shape their own legal identities

but also to influence the very legal categories that the law presents to them. Spire (2005) studies the “paper careers” of foreigners in France, and finds that migrants were able to influence their own statuses as a result of bureaucratic agents’ institutional autonomy vis-à-vis immigration legislation.

Mass movements of migrants can also use political capital to feed back into the policy process and create new legal categories: the *sans papiers* movement in France in the 1990s at least partially succeeded in forcing legislators to create a legal solution for migrants who were neither regularizable nor deportable (Lochak 1997). While these studies have emphasized the role of forms of capital in accessing regular legal status, Sciortino (2004) argues that access to resources is also a precondition to irregular migration, which is an inherently risky and expensive endeavor.

### **3.2.3 Pathways of irregularity**

These conceptual approaches to the production of multidimensional forms of irregularity make the case for important heterogeneity hidden by a binary conceptualization of irregularity, but they also lend themselves to a potentially unending array of typologies of different kinds of legal statuses. I draw on this literature to examine a limited set of three concrete pathways into irregularity for empirical examination. This section reviews the pathways of no-visa (“irregular”) entry, overstaying, and befallen irregularity. The discussion will focus on the concrete policy mechanisms of control that define each pathway and the evolution of these control mechanisms in France, Italy, and Spain, both in general and vis-à-vis Senegalese migrants in particular.

#### **3.2.3.1 Pathway: No-visa entry**

Entering a country without the proper documentation is a “geographic flow” (Triandafyllidou 2010a) into irregular status: migrants move from one place and enter another without the proper authorization or documentation. While research in the European context has shown that this pathway to irregular status is more limited in its extent than in the US, European countries have invested in restrictive border control and their political discourses around irregular migration focus heavily on undocumented entry (Vollmer 2011).

The main mechanism of control regulating the pathway of irregular entry is the entry visa. In France, visas were nominally required for entry by the 1945 ordinance that organized post-war immigration, but French

external control policy was porous until the 1980s. This was particularly true for Senegalese: as a result of a series of bilateral agreements that defined the conditions of entry, residence, and work for Senegalese in France and took precedence over national immigration legislation, Senegalese citizens did not need a visa to enter France between 1960 and 1986 (Marot 1995; Mezger and González-Ferrer 2013). As part of an effort to “close the borders” following economic crises in the 1970s (Lochak 1997), France unilaterally declared entry visas necessary for all non-EU foreigners, including Senegalese, in a governmental circular in 1986 (refer to chapter 2 for additional details on the evolution of this mechanism of control).

While French policy subsequently lifted visa requirements for nationals of EU and other developed countries, foreigners from many less-developed countries, including Senegal, are still required to have visas to enter France. Despite this evolution towards increased external control, including increased border policing and stricter guideline for visa issuance, there are no widely accepted estimates of the number or characteristics of irregular entries to France (Courau 2009). Some research suggests, however, that migrants from France’s Mediterranean neighbors (Egypt, Tunisia, Morocco, and Algeria) and former colonies (Senegal, Mali, and Mauritania) are more likely to enter with falsified documents (Wihitol de Wenden 2010).

Irregular entry has long been perceived by northern Europeans to be a more pressing problem in southern Europe, particularly in Italy and Spain. Indeed, both countries are infamous for images of clandestine migrants arriving by boat from the coasts of North or West Africa (Fasani 2010; Pastore, Monzini, and Sciortino 2006; González-Enríquez 2009, 2010) and only developed national-level immigration legislation in the 1980s in response to pressure from other Schengen and EU members concerned about these porous Mediterranean borders. Spain, while having previously established visa requirements via administrative circular or royal decree, instituted Schengen-style visa requirements in an organic law in 1985. Italy allowed Senegalese nationals to enter the country without a visa between 1966 and 1990 (Mezger and González-Ferrer 2013), but abolished this provision in 1990 as part of a general reform of entry policy in accordance with Schengen regulations.

These visa requirements have been part of a general evolution in both southern European countries towards stiffer external controls to combat the perceived threat of irregular entries (Sciortino 1999; Finotelli and Sciortino 2009; González-Enríquez 2009). In reality, unauthorized geographic inflows represent a small proportion of irregular residents in Italy: Fasani (2010) estimates that as few as 4% of irregular migrants entered without authorization by sea, and as few as 15% by airport or land borders. Irregular entry to Spain was a significant pathway to irregularity in the 1990s with many clandestine migrants arriving in boats from Morocco, but this pathway has decreased in significance with increased high-tech surveillance of coastlines and bilateral readmission agreements with origin and transit countries (González-Enríquez 2010).

### *3.2.3.2 Status flows into irregularity and mechanisms of internal control*

In contrast to geographic flows, status flows involve migrants who are already in a destination country and change legal status (Triandafyllidou 2010a). Status flows towards irregularity can involve overstaying a tourist visa and becoming irregular with regard to work and/or residence; or losing regular residence/work status during a stay in a destination country (otherwise known as “befallen irregularity”). Residence and work permits, which define a foreigner’s authorization to reside and work in a destination country, are the main mechanisms of internal control in France, Italy, and Spain; these permits thus define these status-flow pathways of irregularity. Research on irregularity in Europe has demonstrated that status flows are by far the predominant pathway into irregular status (Triandafyllidou 2010a).

#### **3.2.3.2.1 Pathway: Overstaying**

Overstaying—legal entry (with or without a visa and usually for tourism) followed by remaining in the country after the expiration of the visa or entry authorization—represents the most prevalent pathway to irregularity in Europe, and is common in all three countries in this study (Sciortino 2004; Düvell 2011b; Finotelli and Sciortino 2013). While this pathway is often referred to as “visa overstaying,” there are many cases in which migrants can be authorized to enter a destination without a formal visa.

In France, many overstayers enter with visas for tourism, studies, family visits, or business and become irregular once their visa/entry authorization has expired and they stay in the country without a valid

residence permit (Wihtol de Wenden 2010; Courau 2009). As many of these entry visas are issued under the Schengen rules, they are *courte durée*: they allow for a stay in France of only three months and do not allow the holder to apply for a residence permit (GISTI 2011). The preferential bilateral regime between France and Senegal also created conditions for overstaying. While Senegalese did not need visas to enter France prior to 1986, “false tourism” was a common strategy for migrating to France: obtaining a work contract in Senegal prior to departing for France was difficult, so many Senegalese entered France without a visa as ostensible tourists and subsequently found work (Bergues 1973). This can only be considered overstaying after 1974, though, which was when France first started requiring Senegalese to obtain residence permits after arrival.

Overstayers also seem to be numerous in Italy: according to the Italian Ministry of Internal Affairs, upwards of 70% of irregular migrants in Italy between 2000 and 2006 became irregular by overstaying legitimate visas (Fasani 2010). Even though Senegalese migrants were dispensed from visa requirements from 1966 to 1990, they were expected to regularize their status after arrival (Mezger and González-Ferrer 2013), leaving them open to irregular status after authorized entry. Subsequent Italian immigration laws specified that foreigners had to apply for residence permits within 90 days of arrival, but also made obtaining a residence permit dependent on having a work contract. Those migrants entering on tourist visas thus had little recourse to legitimate regular status once in Italy.

In Spain, overstaying is the main pathway to irregular status, with “false tourism” particularly common for migrants from Spain’s former Latin American colonies (González-Enríquez 2010). As in Italy, secure residence status has been linked to employment, but a toleration of irregular work and the provision of some government benefits to irregular migrants has made it possible for migrants to overstay tourist visas (González-Enríquez 2010).

#### **3.2.3.2.2 Pathway: befallen irregularity (loss of legal status)**

“Befallen irregularity” refers to a situation where migrants lose regular authorization for residence and/or work in a destination and thus fall into irregularity (Triandafyllidou 2010b). In general, this pathway is linked to immigration policies that define residence and work permits of limited duration in an effort to

limit legal migration; the expiration of these permits without renewal leads to irregular status. Migrants may not be able to renew their permits for many reasons, but the most frequent obstacle they face is the fact that renewal of residence permits is often linked to proof of legal employment (Triandafyllidou 2010b). Loss of regular status may also, seemingly paradoxically, be linked to amnesty or regularization programs through similar employment provisions: migrants who temporarily gain legal status may fall into irregularity if they are unable to fulfill the employment conditions for renewal (Triandafyllidou 2010b). There is also evidence that bureaucratic inefficiencies in processing renewal application can lead to befallen irregularity (Kraler 2009; Düvell 2011b).

Befallen irregularity is a distinct risk for Senegalese migrants under the immigration laws in France, Italy, and Spain. Loss of regular status in France is linked to the limited duration of residence and work permits: most migrants with regular status possess a temporary permit with a maximum duration of one year, and they must apply for renewals while still in regular status; a permanent resident permit is only obtainable after years<sup>12</sup> of continuous regular residence in France (GISTI 2011). Frequent changes in immigration law have been common and tightened renewal procedures have increased the risk of losing regular status (Lochak 1997). The experience of Senegalese *sans papiers* in France in the 1990s illustrated this risk: the Pasqua law of 1993 made renewal of permanent residence permits more difficult, thus creating many irregular migrants who were nonetheless not expulsable because of family ties to France (Lochak 1997).

In Italy, legal employment is a prerequisite for legal residency, thus migrants who are unemployed or who are working in the underground economy can easily fall into fully irregular status because of lack of a formal work contract (Fasani 2010). Spain's approach to dealing with befallen irregularity has evolved over time: prior to 2000, migrants could lose regular status because of bureaucratic delays, but the immigration laws of that year specified that non-response by the administration three months after the submission of a renewal application constitutes a renewal of regular status (González-Enríquez 2010). Still, Spain has similar employment provisions to Italy, and many migrants thus lose regular status when they are unable to prove legal employment; this is especially true following extraordinary regularizations, the requirements of

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<sup>12</sup> The required waiting period has varied over time and is currently five years (GISTI 2011).

which are less strict than for subsequent renewals (González-Enríquez 2010). These inconsistencies in Spanish immigration law have led scholars to conclude that maintaining regular status is almost impossible in Spain (Calavita 1998; Donato and Armenta 2011).

### **3.3 Hypotheses**

The geographic and status flows discussed above represent the most important pathways—in either numeric or political terms—into or out of irregular status in France, Italy, and Spain. These pathways are ideal types, and the goal of this study will be to determine how Senegalese migrants in the main contexts of reception in Europe navigate these pathways. The theoretical literature reviewed above offers several hypotheses regarding variation in pathways of irregularity:

*Legal and social production of irregularity:* Variation in immigration-control policies and related social institutions over destinations and time will produce variation in the pathways of irregularity for Senegalese migrants in France, Italy, and Spain.

Pathways of irregularity will be positively associated with more-recent periods as restrictive immigration-control policies create more pathways to irregular status;

Migrants in Italy and Spain will experience more forms of irregularity as a result of contextual factors such as later establishment of restrictive immigration policy, longer borders with migrant-sending regions, and greater social tolerance of irregularity;

Links to other institutions: unemployment may lead to increased risk of irregular status because the renewal of permits is often linked to having a formal work contract, especially in Spain and Italy; spousal or parental connections in the destination country may be associated with decreased probability of experiencing irregular pathways because of provisions that grant legal status for family reunification, being the parent of a minor child, or marrying a citizen of the destination country.

*Migrant capital and strategic action:* migrants' access to different forms of capital will influence their navigation of pathways of irregularity. In particular, migrants with greater access to human, financial, and

social capital will be less likely to experience irregularity, but some forms of migration-specific capital (e.g., previous irregular experience) may increase the probability of irregularity;

*Linkages between pathways of irregularity:* forms of irregularity can be temporally interrelated and difficult to escape, and can also provide migrants with skills and knowledge that make subsequent circumvention of immigration-control mechanisms more likely

### **3.4 Data and Methods**

#### **3.4.1 Sample**

This chapter uses longitudinal life-history data from the Migrations between Africa and Europe (MAFE)-Senegal project, described in detail in chapter 1. The project collected retrospective data that included complete year-by-year residential and administrative histories of each respondent, along with a host of other socio-demographic data (for more information on MAFE-Senegal methodology, see Beauchemin 2012).

The sample for the analysis in this chapter includes individuals who have migrated at least once to Italy, France or Spain while they were greater than 18 (see chapter 1 for more details on the MAFE sampling and selection scheme). Returned migrants interviewed in Senegal are included if they spent at least a year in at least one of the destination countries. Approximately 14% of the migrants spent time in multiple destinations within the three main contexts of reception; I thus constructed migration “spells” or individual trips of one year or greater grouping the years that an individual migrant spent in an individual country. This yielded 768 individual- and destination-specific trips that form the basic unit of analysis: 305 in France, 239 in Italy, and 224 in Spain. Descriptive statistics for this sample, calculated with probability sampling weights, are available in Table 3.2.



Table 3.2 - Descriptive statistics for MAFE-Senegal sample

Variable	France				Spain				Italy				Total			
	Mean	SD	Min.	Max.	Mean	SD	Min.	Max.	Mean	SD	Min.	Max.	Mean	SD	Min.	Max.
Duration of legal status	6.83	7.56	1	45	4.13	3.64	1	24	4.68	5.17	1	29	5.69	6.43	1	45
Legal status: NRP_NWP	0.24	0.40	0	1	0.40	0.42	0	1	0.30	0.37	0	1	0.29	0.40	0	1
Legal status: NRP_WP	0.032	0.16	0	1	0.030	0.14	0	1	0.061	0.20	0	1	0.039	0.17	0	1
Legal status: RP_NWP	0.13	0.29	0	1	0.045	0.18	0	1	0.13	0.29	0	1	0.11	0.27	0	1
Legal status: RP_WP	0.60	0.44	0	1	0.52	0.41	0	1	0.51	0.42	0	1	0.56	0.43	0	1
Entry status: no visa	0.25	0.44	0	1	0.53	0.50	0	1	0.46	0.50	0	1	0.37	0.48	0	1
Number of legal status spells	1.77	1.11	1	6	1.50	0.58	1	4	1.85	1.02	1	5	1.73	1.00	1	6
Period: pre-1991	0.45	0.50	0	1	0.12	0.32	0	1	0.19	0.39	0	1	0.31	0.46	0	1
Period: 1991-2000	0.28	0.45	0	1	0.22	0.41	0	1	0.34	0.47	0	1	0.28	0.45	0	1
Period: 2000-2008	0.27	0.44	0	1	0.66	0.47	0	1	0.48	0.50	0	1	0.41	0.49	0	1
Age at migration	28.2	7.99	5	60	28.3	6.88	14	65	28.0	6.07	18	49	28.2	7.29	5	65
Male	0.59	0.49	0	1	0.82	0.39	0	1	0.88	0.32	0	1	0.71	0.45	0	1
Education (years)	11.0	6.40	0	20	6.71	5.32	0	20	9.84	4.60	0	20	9.81	5.99	0	20
Ethnicity: Wolof	0.36	0.48	0	1	0.53	0.50	0	1	0.79	0.41	0	1	0.51	0.50	0	1
Religion: Mouride	0.29	0.45	0	1	0.34	0.47	0	1	0.64	0.48	0	1	0.39	0.49	0	1
Num. of contacts at dest. before mig.	0.28	1.11	0	13	0.11	0.58	0	5	0.099	0.62	0	8	0.20	0.91	0	13
Num. of contacts at dest.	2.35	2.65	0	12.5	1.60	1.82	0	9	1.94	2.00	0	7.50	2.08	2.35	0	12.5
Num. trips	1.63	1.22	1	10	1.51	0.77	1	6	1.60	0.99	1	7	1.59	1.08	1	10
Language of dest.: none	0.047	0.21	0	1	0.63	0.48	0	1	0.56	0.50	0	1	0.31	0.46	0	1
Unemployed at dest.	0.34	0.38	0	1	0.13	0.27	0	1	0.081	0.22	0	1	0.23	0.35	0	1
Kids in Sn before mig.	0.39	0.49	0	1	0.31	0.46	0	1	0.36	0.48	0	1	0.36	0.48	0	1
Kids in dest.	0.23	0.36	0	1	0.092	0.25	0	1	0.062	0.19	0	1	0.16	0.31	0	1
Spouse in Sn before mig.	0.42	0.50	0	1	0.42	0.49	0	1	0.56	0.50	0	1	0.46	0.50	0	1
Spouse in dest.	0.10	0.25	0	1	0.011	0.087	0	1	0.038	0.15	0	1	0.066	0.21	0	1
Geo. origin: Dakar	0.24	0.43	0	1	0.32	0.47	0	1	0.45	0.50	0	1	0.31	0.46	0	1
Father education: < sec. school	0.60	0.49	0	1	0.75	0.43	0	1	0.71	0.45	0	1	0.66	0.47	0	1
Trip paid by family	0.47	0.50	0	1	0.28	0.45	0	1	0.32	0.47	0	1	0.39	0.49	0	1
Plan to stay: definitive	0.34	0.48	0	1	0.61	0.49	0	1	0.60	0.49	0	1	0.47	0.50	0	1
Trip motivation: work/better life	0.38	0.49	0	1	0.66	0.48	0	1	0.76	0.43	0	1	0.54	0.50	0	1
Activity before mig.: unemployed	0.47	0.50	0	1	0.23	0.42	0	1	0.29	0.45	0	1	0.37	0.48	0	1
Econ. status before mig.: good	0.11	0.32	0	1	0.066	0.25	0	1	0.086	0.28	0	1	0.097	0.30	0	1
N (unweighted)	305				224				239				768			

Notes: MAFE-Senegal data (w eighted).

### 3.4.2 Legal status variables

Administrative histories provided information on migrants' statuses in the legal domains of entry, residence, and work authorization. Table 3.3 provides the wording of the questions that elicited these statuses and the coding of responses. I dichotomized entry status into visa (V) and no visa (NV) based on migrants' responses about whether or not they had a visa when they entered the destination country; this variable is thus defined for the year of arrival for each trip. Senegalese nationals did not need visas to enter France between 1960 and 1985 or Italy between 1966 and 1990; I coded those migrants who entered those countries during those periods as having a visa since they effectively had an authorized entry status.

For residence and work permits, the questionnaire asked about migrants' authorization in each year in a given destination, and allowed migrants to respond that they had, did not have, or did not need a permit; migrants were additionally able to specify if the work permit was "selective" (i.e., a permit limited to a specific activity). I dichotomized residence authorization into residence permit (RP) or no residence permit (NRP) for each year in the trip, with those migrants who declared not needing a residence permit coded as having authorized residence status (RP) because of their effectively authorized status. I dichotomized work status in the same way, with the resulting statuses of having/not needing a work permit (WP) and not having a work permit (NWP) for each year in the trip; those migrants who declared a selective work permit were collapsed into the work permit (WP) category.

Table 3.3 - Legal-status state alphabet, MAFE-Senegal survey

<b>Relationship between legal domains and state codes used to construct legal status</b>			
<b>Legal domain</b>	<b>Question</b>	<b>Modalities</b>	<b>State Codes</b>
Entry	"When you arrived in [destination country], did you have a visa? And then? Did your situation change?"	Yes	<b>V:</b> Visa
		No	<b>NV:</b> No visa
Residence	"When you arrived in [destination country], did you have a residence permit? And then? Did your situation change?"	Yes	<b>RP:</b> Residence permit/Did not need
		Did not need	
		No	<b>NRP:</b> No residence permit
Work	"As for work, when you arrived in [destination country], did you have a work permit? And then? Did your situation change?"	Yes	<b>WP:</b> Work permit/special work permit/did not need a work permit
		Did not need	

		No	<b>NWP:</b> No work permit
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I combined the indicators of residence and work permits to create a composite categorical variable for legal status in each year in the trip. I coded the combinations of these two forms of authorization as: RP\_WP (ego has both residence and work permits), NRP\_WP (ego has no residence permit, but a work permit), RP\_NWP (ego has a residence permit but no work permit), NRP\_NWP (ego has neither a residence permit nor a work permit). In this study, I will refer to the RP\_WP status as “fully regular,” while I will refer to NRP\_NWP status as “fully irregular.” I use a variety of terms to describe RP\_NWP and NRP\_WP statuses, including “precarious,” “semi-compliant,” “semi-irregular,” and “mixed.” I used these indicators of legal status to create both dependent and independent variables reflecting the pathways into irregularity under examination. This basic typology will serve as the main framework for legal status in this and subsequent chapters. The descriptive statistics in Table 3.2 show that migrants experience a variety of post-entry legal statuses, and that these statuses vary by destination. Migrants spend 56% percent of their person years in fully regular (RP\_WP) status across all destinations, and 29% of their person years in fully irregular (NRP\_NRP) status. They spend about 15% of person-years in semi-irregular statuses, with lack of work authorization (RP\_NWP) the most common precarious status. Migrants in France are most likely to have both a residence and a work permit (60% of person-years), while migrants in Spain are most likely to have fully irregular status (40% of person-years). Both kinds of precarious status are more prevalent in Italy than in other destinations. While these descriptive statistics are once again suggestive of systematic differences in irregularity by context, they do not allow examination of disaggregated pathways.

### **3.4.3 Predictor variables**

The main predictors of interest in the model are indicators of legal and social contexts of reception. Called *contextual variables* below, these include indicators for destination country (France, Italy, or Spain, with France serving as the reference category), period of arrival (prior to 1991, 1991-1999, and after 2000), and an indicator for whether or not a regularization program took place in the destination in the migrant’s year of entry (see Kraler 2009:37–39 for a comprehensive list of regularization programs).

The second set of predictors indicates a migrant's access to various *forms of capital*. Migration-specific capital or *prior migration experience* varies by model and includes prior no-visa entry and previous legal-status category. Human capital includes years of education and competence in the language of the destination. Financial capital includes participation of the family in financing the migration and the migrant's subjective economic status before migration. Social capital is captured by the number of contacts the migrant reports knowing at the destination prior (either prior to arrival or during the year of the outcome, depending on the model).

The third set of predictors captures a migrant's *links to social institutions*. Dummy variables indicate if the migrant has a spouse or children in the destination country, and a categorical variable indicates ego's labor-market status (working, unemployed, or inactive).

Models also include variables capturing *individual sociodemographic characteristics*, including age at migration and dummy variables for sex (male), ethnicity (Wolof), religion (Mouride), geographic origin in Senegal (Dakar), father's level of education (less than secondary school), migration plans (definitive stay), and migration motivation (work/better life).

### **3.4.4 Models**

I model each of the three main pathways into irregular status reviewed above. The model for no-visa entry examines determinants of the dichotomous indicator for starting a trip with a visa, and is thus a cross-sectional model at the time of arrival. The model for overstaying uses a cross-sectional multinomial logistic regression to study migrants' residence and work authorizations during the first year of residence in a destination. A final model for befallen irregularity examines transitions over time into fully irregular status and uses discrete-time survival methods.

#### **3.4.4.1 No-visa entry**

For the model of the pathway of no-visa entry, the dependent variable is the dichotomous variable that indicates whether or not the migrant declared having a visa at the time of entry into the destination country, with values of 1 corresponding to "no visa" and values of 0 corresponding to "visa." All 768 trips and their

entry-status indicators are included in the analytic sample for this model. I estimated the following cross-sectional logistic regression:

$$\ln\left(\frac{\Pr(\text{No Visa})}{1-\Pr(\text{No Visa})}\right) = \alpha + X_1\beta_1 + X_2\beta_2 + X_3\beta_3 + X_4\beta_4 + X_5\beta_5 \quad (1)$$

where  $\mathbf{X}_1$  is a vector of *contextual variables*, including an interaction between destination and period.  $\mathbf{X}_2$  is a vector of variables indicating *prior migration experience*: a categorical variable encodes a previous migration spell beginning with or without a visa (with no previous migration spell as the reference category), and a dummy variable indicates whether ego was a returned migrant at the time of the survey.  $\mathbf{X}_3$  is a vector of variables indicating access to *forms of capital*, with subjective economic status and number of contacts measured before the trip.  $\mathbf{X}_4$  is a vector of variables representing *links to institutions*, with employment measured in the year prior to the trip.  $\mathbf{X}_5$  is a vector of *individual variables*.

#### 3.4.4.2 Overstaying

The analytic sample for the model of the pathway of overstaying again included all 768 trips. The dependent variable is the categorical variable indicating a migrant's legal status (combining indicators of residence and work authorization) during the year of arrival. I estimated the following multinomial logistic regression:

$$\ln\left(\frac{\Pr(\text{Legal Status}_{it1}=i)}{\Pr(\text{Legal Status}_{t1}=\text{NRP\_NWP})}\right) = \alpha + X_1\beta_1 + X_2\beta_2 + X_3\beta_3 + X_4\beta_4 + X_5\beta_5 \quad (2)$$

where  $i$  indexes the following values of the categorical legal-status variable for the first year at a destination: RP\_WP (1), RP\_NWP (2), NRP\_WP (3); the reference category for this regression is NWP\_NWP (4). Predictors are identical to those for equation (1), with the following exceptions:  $\mathbf{X}_2$  is a dichotomous indicator of entry status, coded as “1” for entry with a visa and “0” for entry without a visa;  $\mathbf{X}_3$  includes the number of previous migration spells as an indicator of migration-specific capital and measures self-reported economic status during year 1 of the migration spell; and the labor-market indicators in  $\mathbf{X}_4$  are measured during year 1 of the migration spell. Overstaying is indicated in this model by having entered with a visa and subsequently having a fully irregular legal status during the first year of residence at the destination.

#### 3.4.4.3 Befallen irregularity

Befallen irregularity is indicated in this model by a transition into fully irregular (NRP\_NWP) status. As a dynamic model, it follows individuals over the course of their stay in a destination until they fall into irregular status or are censored. The analytic sample for the model thus includes only those person-years during which a migrant had a fully regular status or a semi-irregular status (i.e., not NRP\_NWP). This risk set thus includes 6,731 person years. The outcome is a dichotomous variable indicating whether the migrant's legal status at time  $t + 1$  changed to fully irregular (NRP\_NWP). I estimated a discrete-time survival model to study the probability of transition to irregular status:

$$\ln\left(\frac{\Pr(NRP\_NWP_{t+1})}{1-\Pr(NRP\_NWP_{t+1})}\right) = \alpha + X_{1t}\beta_1 + X_{2t}\beta_2 + X_{3t}\beta_3 + X_{4t}\beta_4 + X_{5t}\beta_5 + X_{6t}\beta_6 \quad (3)$$

where predictors are the same as in equation (2), except that  $\mathbf{X}_{3t}$  now contains a trichotomous variable indicating ego's legal status at time  $t$ , which can take the values of RP\_WP, NRP\_WP, or RP\_NWP. In addition, variables that are time-varying—number of contacts at the same destination, presence of family members at the same destination, and labor-market participation—are measured at time  $t$ .

#### 3.4.4.4 Estimation and presentation of models

All models correct standard errors for clustering at the level of the individual, which allows the inclusion of multiple trips per individual. I present the results of the nonlinear multivariate models as average marginal effects. In ordinary least squares (OLS) models, regression coefficients represent marginal effects, or the expected change in the outcome variable for a one-unit change in the predictor variable. For nonlinear models, however, the use of a transformation that allows linear modeling of the dependent variable renders interpretation of coefficients less straightforward as the probability of the modeled outcome depends, in part, on the values of the predictors.

While some studies present results for nonlinear models as log-odds or odds ratios, presentation on the same scale as the original data, as is the case with marginal (also called partial) effects, is arguably easier to interpret. For example, computation of marginal effects after a logistic regression model would show how the probability of the outcome changes with a one-unit change for a given predictor variable. Marginal effects also allow for interpretable summaries of interactions between predictors that would be difficult to construct with odds ratios. Average marginal effects are calculated by computing a marginal effect for each

case and averaging the value over all cases. If predictors are categorical, the AME represents the expected change in the outcome with a discrete change in the value of the categorical variable (see Cameron and Trivedi 2010 for more information on average marginal effects). Standard errors for AMEs are calculated using the delta method. Tables of untransformed coefficient estimates are available in Appendix A.

## **3.5 Results**

### **3.5.1 *No-visa entry***

Descriptive statistics suggest initial support for the hypothesis that context of reception plays an important role in shaping the pathway of no-visa entry. presents descriptive statistics for the sample under study, and shows that 37% of the migration spells of Senegalese migrants in the MAFE sample started without a visa across all three destination countries. The probability of no-visa entry varies a great deal by destination: while only 25% of migration spells in France started without a visa, 46% did so in Italy and more than half (53%) did so in Spain. Figure 3.2 shows further variation by destination and period. Across all three countries, the probability of no-visa entry has increased since the beginning of the 1990s. No-visa entry was most common during the 1990s in both France and Italy, while it was most prevalent in Spain during the 2000s. This figure also makes it clear that no-visa entry has been more common in all periods in both Italy and Spain than in France.

Model I of Figure 3.2: Entry status by destination and period

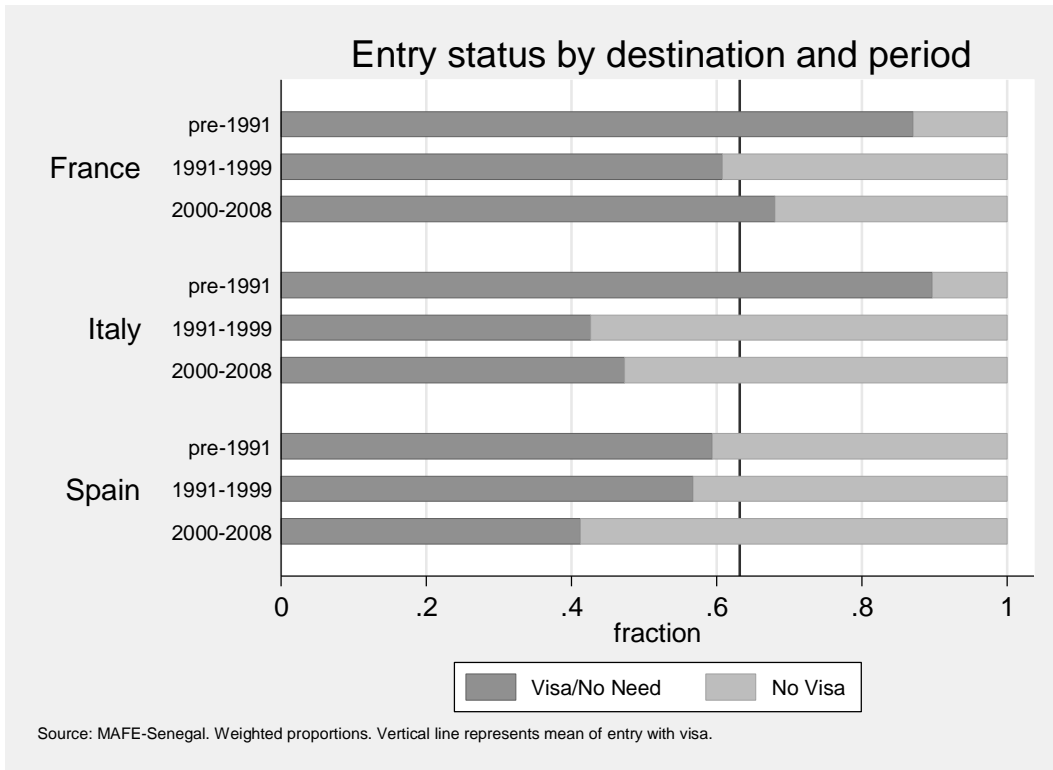
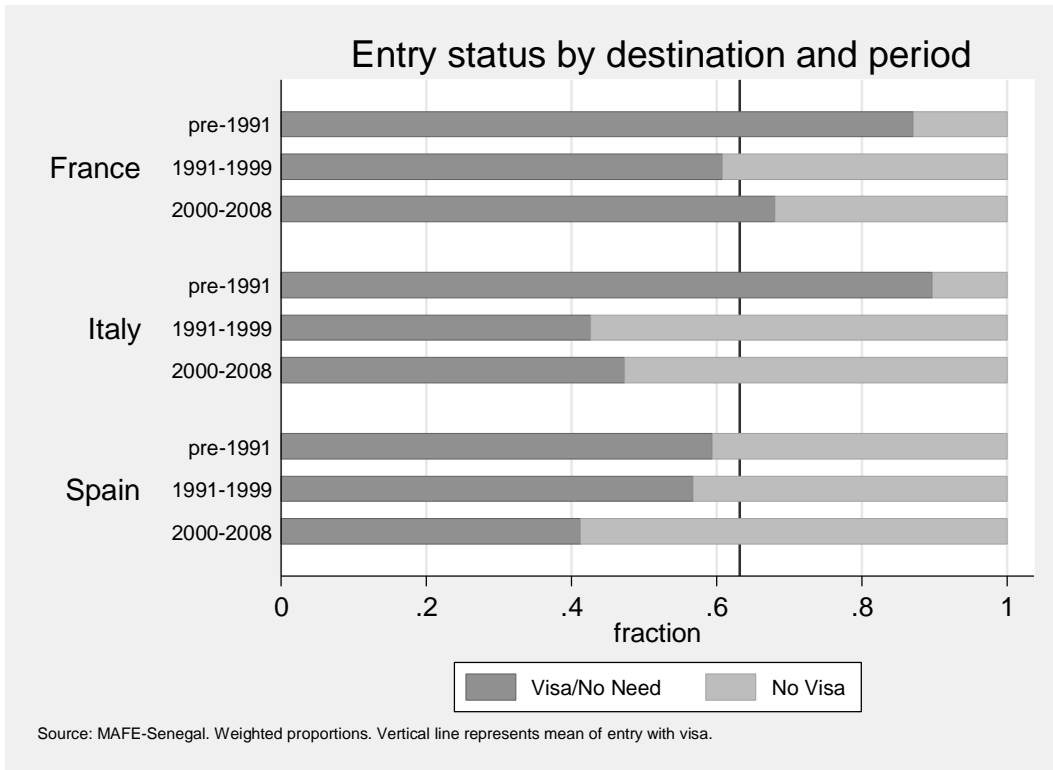


Table 3.4 displays the results of the logistic regression of no-visa entry described by equation 1 in the form of average marginal effects (AMEs). This model reproduces the main insights of the descriptive statistics regarding context, while adjusting estimates for a host of other contextual and individual variables. Compared to migrants in France, migrants are 14 percentage points more likely to start a migration spell in Spain without a visa, and 18 percentage points more likely to do so in Italy. The relationship between period of arrival and the probability of no-visa entry is even greater: compared to those migration spells starting before 1991, migrants arriving in the 1990s experienced a 24-point increase in the probability of no-visa entry, while for arrivals in the 2000s the increase was 26 points. Perhaps counterintuitively, migrating during the year of a regularization program is negatively associated with entering without a visa (but only at  $p < .10$ ).



Figure 3.2: Entry status by destination and period



Because the model includes an interaction between destination and period (which is taken into account when calculating average marginal effects), it is also possible to examine how destination and period work together to shape this pathway. Figure 3.3 shows the predicted probability of no-visa entry for each combination of destination and period, and confirms that the probability of no-visa entry to Italy has been almost 60% since 1991, statistically significantly higher than all periods in France and the pre-1991 period in both Spain and Italy. While there is no statistically significant difference in the predicted probability of no-visa entry in Spain between periods, the pattern found in the descriptive statistics of a monotonic increase over time remains. No-visa entry seemed to peak in France in the 1990s, but both later periods have predicted probabilities of no-visa entry that are statistically significantly higher than the pre-1991 period. It is thus clear that context, both in terms of destination and period of arrival, plays an important role in shaping access to the no-visa pathway to irregularity, and that this pathway is more common in Southern Europe (especially Italy).

Table 3.4: Average marginal effects of models for no-visa entry, overstaying, and befallen irregularity

Predictor	Outcome					
	I. No-visa entry <sup>2</sup>		II. Overstay <sup>3</sup>		III. Befallen irreg. <sup>4</sup>	
	AME	se	AME	se	AME	se
<b>Context</b>						
Period (ref.: pre-1991)						
1991-2000	0.24***	0.044	0.10*	0.046	0.0022	0.0030
2000-2008	0.26***	0.047	0.21***	0.045	-0.0018	0.0024
Destination (ref.: France)						
Spain	0.14**	0.051	0.12*	0.052	0.00063	0.0023
Italy	0.18***	0.050	0.083	0.054	0.0032	0.0026
Regularization year (ref.: no)	-0.067+	0.036	0.078*	0.035	0.0022	0.0014
<b>Previous migration experience</b>						
Previous mig. exp.(ref.: none)						
Previous mig. exp. w/visa	-0.0056	0.075	-	-	-	-
Previous mig. exp. w/out visa	0.34**	0.12	-	-	-	-
Entry status (ref.: no visa)	-	-	0.11**	0.036	0.0014	0.0014
Origin legal status (ref.: RP_NWP)						
Mixed (NRP_WP)	-	-	-	-	0.0012	0.0057
Fully regular (RP_WP)	-	-	-	-	-0.0061*	0.0030
Return migrant (ref.: no)	0.20**	0.065	-0.14*	0.062	0.00027	0.0030
<b>Forms of capital</b>						
Years of education	-0.008*	0.003	0.01***	0.003	0.00011	0.0002
Speaks language of dest. (ref.: yes)	-0.066+	0.036	0.012	0.041	-0.0029+	0.0017
Financial help of family (ref.: no)	-0.052	0.039	-0.084*	0.038	0.00046	0.0022
Self-reported economic status (ref.: bad) <sup>1</sup>	-0.13*	0.057	0.052	0.086	-0.0027	0.0023
Number of contacts at dest.	0.0025	0.016	-0.014	0.009	-0.00041	0.0007
Number of trips	-	-	-0.1***	0.021	0.0012*	0.0005
<b>Links to social institutions</b>						
Kids at dest. (ref.: no) <sup>1</sup>	-0.019	0.054	-0.14*	0.060	-0.0027	0.0020
Spouse at dest. (ref.: no) <sup>1</sup>	0.022	0.049	-0.13**	0.047	0.00049	0.0025
Economic activity (ref.: inactive)						
Unemployed <sup>1</sup>	0.028	0.068	0.19*	0.076	0	.
Employed <sup>1</sup>	-0.039	0.041	0.11*	0.047	-0.01***	0.0017
Definitive plans to stay (ref.: no)	0.059+	0.034	0.011	0.033	0.00017	0.0018
Migration motive: work (ref.: not work)	-0.021	0.036	0.026	0.038	-0.00029	0.0020
<b>Individual sociodemographic characteristics</b>						
Age at migration	0.0056*	0.002	-0.0036	0.003	0.000052	0.0001
Sex: male (ref.: female)	0.046	0.044	-0.066	0.041	0.00029	0.0025
Ethnicity: Wolof (ref.: other)	0.031	0.035	0.043	0.037	-0.0045*	0.0020
Religion: Mouride (ref.: other)	0.13***	0.036	0.062	0.038	-0.0017	0.0017

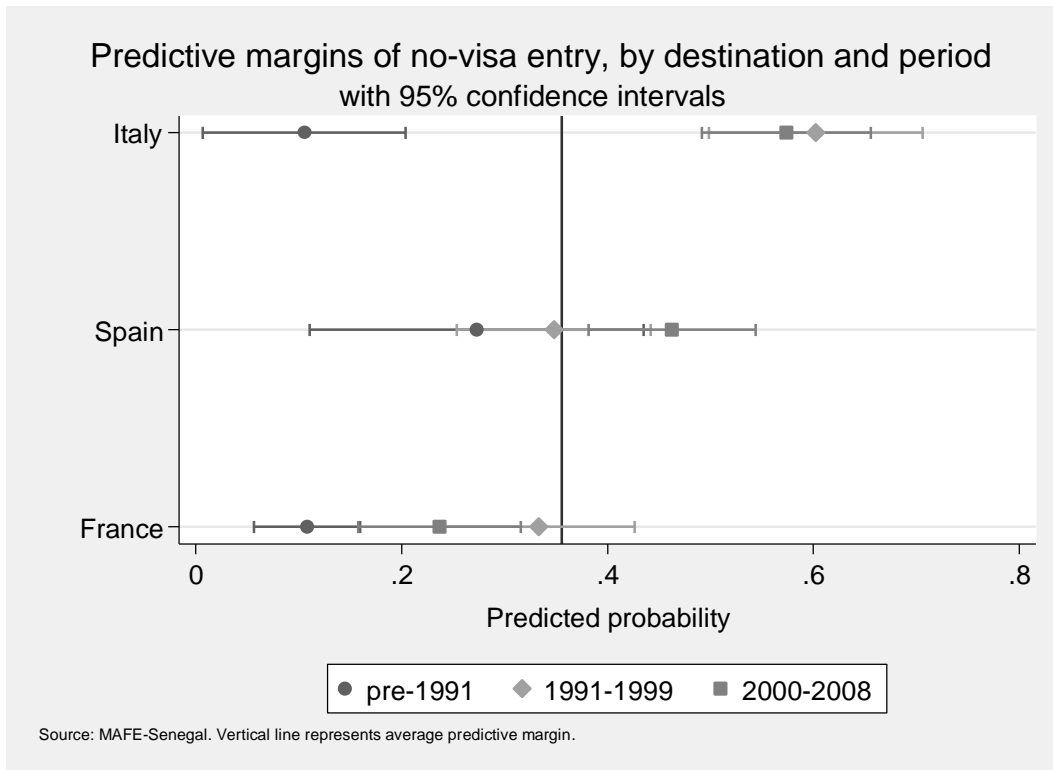
Geographic origin: Dakar (ref.: other)	-0.019	0.035	0.087*	0.035	0.0046+	0.0027
Father's education: < secondary (ref.: >)	-0.040	0.035	0.053	0.036	0.00020	0.0018
Status duration (years)	-	-	-	-	0.00098*	0.0004
Num. of status spells	-	-	-	-	-0.0080*	0.0031
N	763		763		6731	
Log likelihood	-395.37		-690.40		-1577.11	
Pseudo R <sup>2</sup>	0.2045		0.2262		0.2290	

Source: MAFE-Senegal. Notes: + p<0.1, \* p<0.05, \*\* p<0.01, \*\*\* p<0.001. Average marginal effects displayed. Models include interaction between destination and period. 1: variable measured prior to migration for model I. 2: logistic regression of no-visa entry. 3: multinomial logistic regression of four legal-status categories. 4: discrete-time survival model (logistic regression) of status change to NRP\_NWP (fully irregular)

While the indicators for destination country and period could capture the effects of a number of factors, such as economic conditions, there is reason to suspect that the increase in entry without a visa over time and in southern Europe is related principally to the evolution towards increased restrictiveness in the legal context. France's immigration policy evolved in a restrictive direction, and the southern European countries went from a complete lack of a national-level immigration framework to a system designed to plug perceived holes in Mediterranean borders. The increase in no-visa entry over time, especially in southern Europe, is indicative of the creation of this pathway of irregularity by immigration policy.

In addition to shedding light on the contextual factors shaping no-visa entry, Model I of Table 3.4 suggests other factors associated with this pathway to irregularity. There is a strong link to previous irregular experience: having entered a destination without a visa during a previous migration spell is associated with an increase in the probability of no-visa entry of 34 points. Indeed, this is the strongest predictor of no-visa entry in terms of magnitude, and thus offers evidence of the path-dependence of irregular status. This effect can also be interpreted as a form of migration-specific capital: migrants draw on knowledge and skills gained on previous trips starting with an unauthorized entry to make future unauthorized entry more likely. Returned migrants are also 20 percentage points more likely to have started their trips without a visa.

Figure 3.3: Predictive margins of no-visa entry, by destination and period



In addition to migration-specific capital, other forms of capital are also associated with no-visa entry as hypothesized. Financial capital plays a role in irregular entry: while there is no association between family resources, social class (as measured by father's education), or employment prior to migration with no-visa entry, good subjective economic status is associated with a lower probability of no-visa entry. This suggests that visas are selective of the economically successful, but research has also shown that resources of many kinds are necessary for irregular entry (for travel, *passer* fees, etc.). There is also evidence of other forms of capital: belonging to the Mouride Islamic brotherhood is associated with an increase of 13 points in the probability of migrating without a visa; this brotherhood is well known for facilitating the migration of its members by providing social and economic support (Riccio 2008; Kaag 2008), and this finding suggests that its members can draw on the social capital in this network for resources to circumvent entry restrictions.. There is no evidence in the model of associations between links to family in destination and the probability of no-visa entry, which indicates those migrants who have families in the destination

country do not attempt to rejoin them via this pathway and suggests that families wishing to reunify have access to channels that permit legal entry.

### 3.5.2 *Pathway: Overstaying*

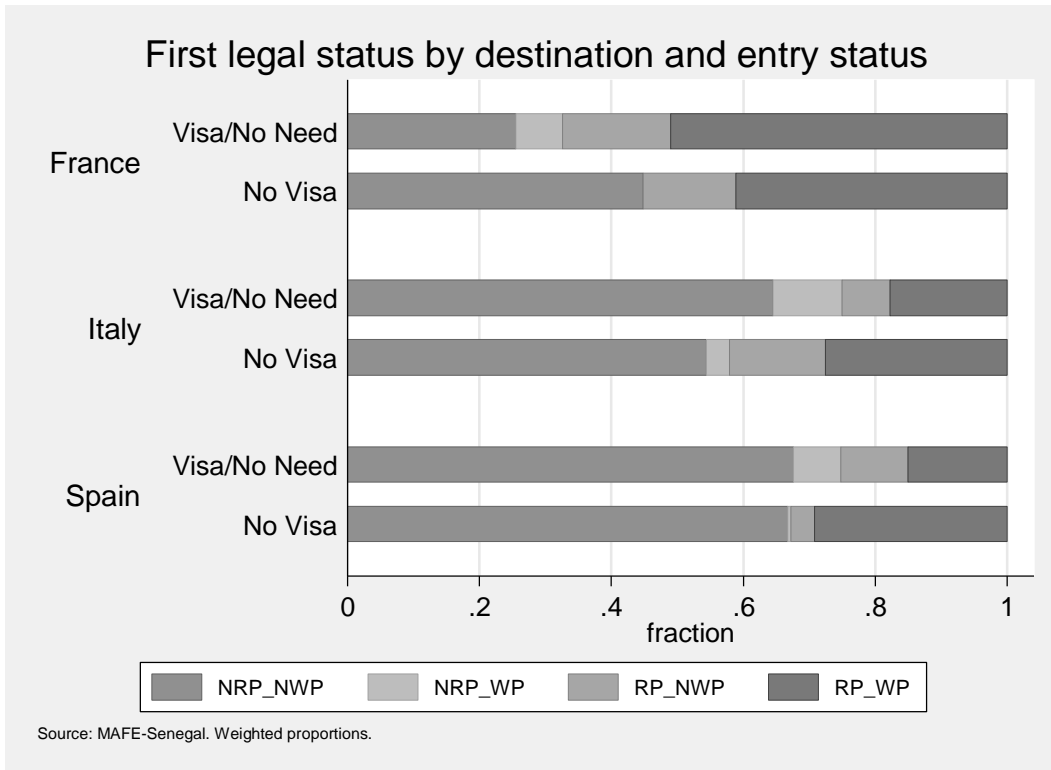
Results for overstaying suggest once again the importance of context and access to forms of capital for this pathway to irregularity, and also show the importance of links to institutions at the destination. Figure 3.4 shows the first legal status of Senegalese migrants' migration spells by both destination and entry status. This figure suggests that migrants in France are more likely to transition to fully regular (RP\_WP) status following arrival than migrants in Italy or Spain; the proportion of migrants transitioning to this status in France is close to half regardless of entry status, while it is much lower in both Spain and Italy. Most of this difference seems to be explained by higher probabilities of transition to fully irregular first status (NRP\_NWP) in the southern European countries. In addition, a higher proportion of migrants entering with a visa transition to fully irregular first status in Italy and Spain than in France. Indeed, in France, entering without a visa seems to be associated with *increased* probability of transitioning to irregular status, indicating that irregular entry is more closely associated with irregular status in the first year. Thus, irregular first status is higher overall in the southern European countries and in particular for those migrants who enter with a visa, suggestive of overstaying in Italy and Spain.

Table 3.4 shows selected results for the multinomial logistic regression of model 2. While the model includes all four legal-status categories in the dependent variable<sup>13</sup>, Table 3.4 only displays average marginal effects for the probability of fully irregular (NRP\_NWP) first status as the pathway of interest concerns transition from having an entry visa to fully irregular status. The model confirms the descriptive results: on average, entering with a visa is associated with an increase of 11 percentage points in the probability of having a fully irregular first legal status. This result, while seemingly counterintuitive, suggests that irregularity is not merely the result of irregular entry and, conversely, that illegal entry does not lead to permanent irregularity.

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<sup>13</sup> While “NRP\_NWP” was identified as the base category for modeling purposes, it is possible to calculate the average marginal effects related to the probability of this category since the probabilities of all categories must sum to unity.

Figure 3.4: First legal status by destination and entry status

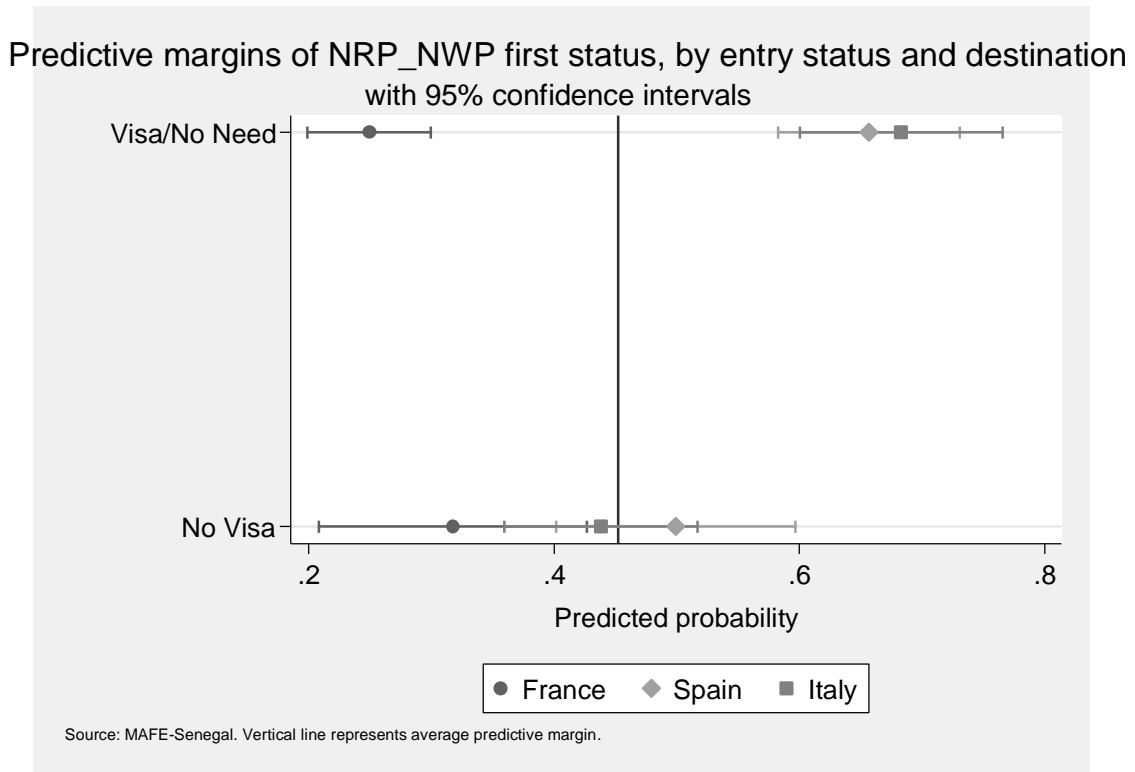


The probability of irregular status during the year of arrival also varies by destination: the model confirms that irregular first status is more common in southern Europe: the probability of first-status irregularity is 14 and 11 percentage points higher in Italy and Spain, respectively, than France. The effects of period of arrival are also evident: arrival in the 1990s is associated with an increase of 11 percentage points in the probability of transition to irregular first status, while the increase is 26 points for the 2000s. Arriving during the year of regularization is positively associated with the probability of having irregular status upon arrival, suggesting that Senegalese migrants may have sought out destinations for the regularization opportunities they offered at certain points in time.

The model allows an examination of how the effect of entering with a visa varies by context. Figure 3.5 displays the predicted probabilities of NRP\_NWP first status by entry status and destination, and shows that the probability of transitioning to irregular status after arrival is higher for migrants with visas in Italy and Spain than in France. Conversely, there is no statistically significant difference in the probability of this transition between the three countries for migrants entering without visas. The positive effect of entering

with a visa on the probability of being irregular during the year of arrival is thus concentrated in the southern European destinations, and the effect is strongest in Italy, as Figure 3.6 shows. There is thus ample evidence that this pathway is produced by variation in context, both geographically and over time.

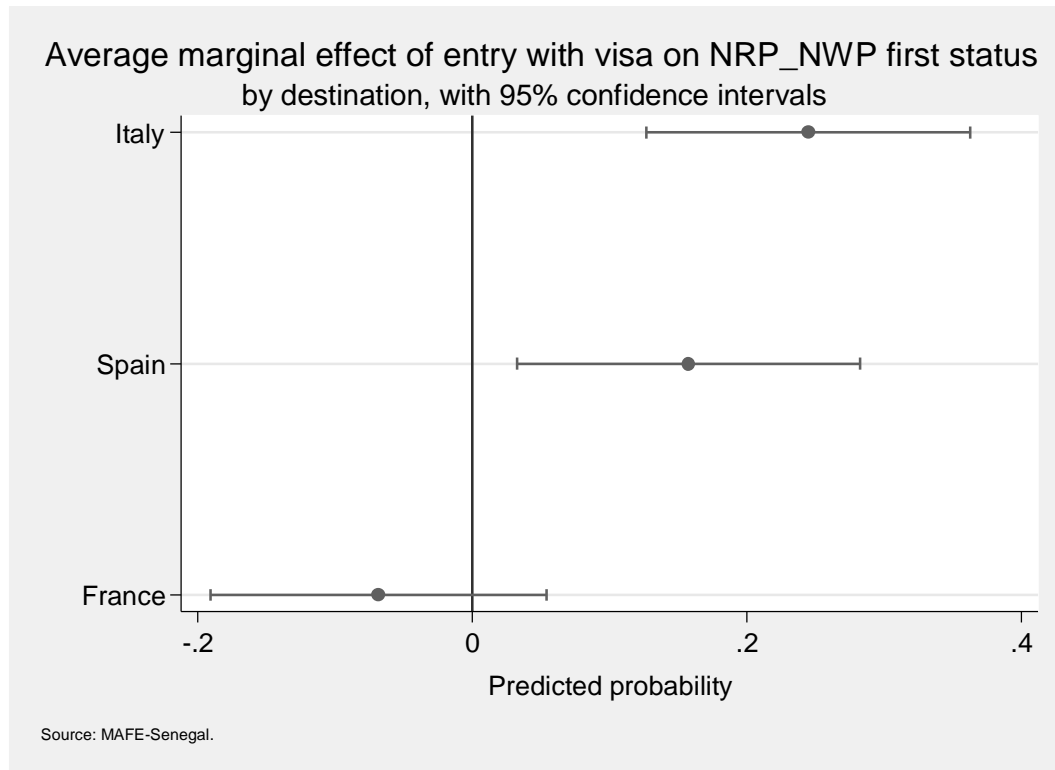
Figure 3.5: Predictive margins of NRP\_NWP first status, by entry status and destination



The model for overstaying allows examination of other correlates of this pathway into irregularity. Social, migration-specific, and financial forms of capital are negatively associated with becoming irregular during the first year of residence. As Model II of Table 3.4 shows, the probability of first-status irregularity decreases with the number of contacts at destination, the number of previous migration spells, the financial participation of the migrants' family, and the migrants' self-reported economic status before the trip. Access to a variety of resources thus protects against first-status irregularity. Having children in the destination country is also associated with reduced probability of first-status irregularity, as is having a spouse at destination (although the effect is not statistically significant), indicating that family links at destination help protect migrants from irregularity. Returned migrants are also less likely to have been in fully irregular status during their year of arrival despite having a higher probability of having entered

without a visa. Other factors are positively associated with this pathway: being from Dakar and migrating for work/a better life are positively associated with the probability of first-status irregularity, and belonging to the Mouride brotherhood is marginally positively associated with this outcome ( $p = 0.051$ ).

Figure 3.6: Average marginal effect of entry with visa on NRP\_NWP first status



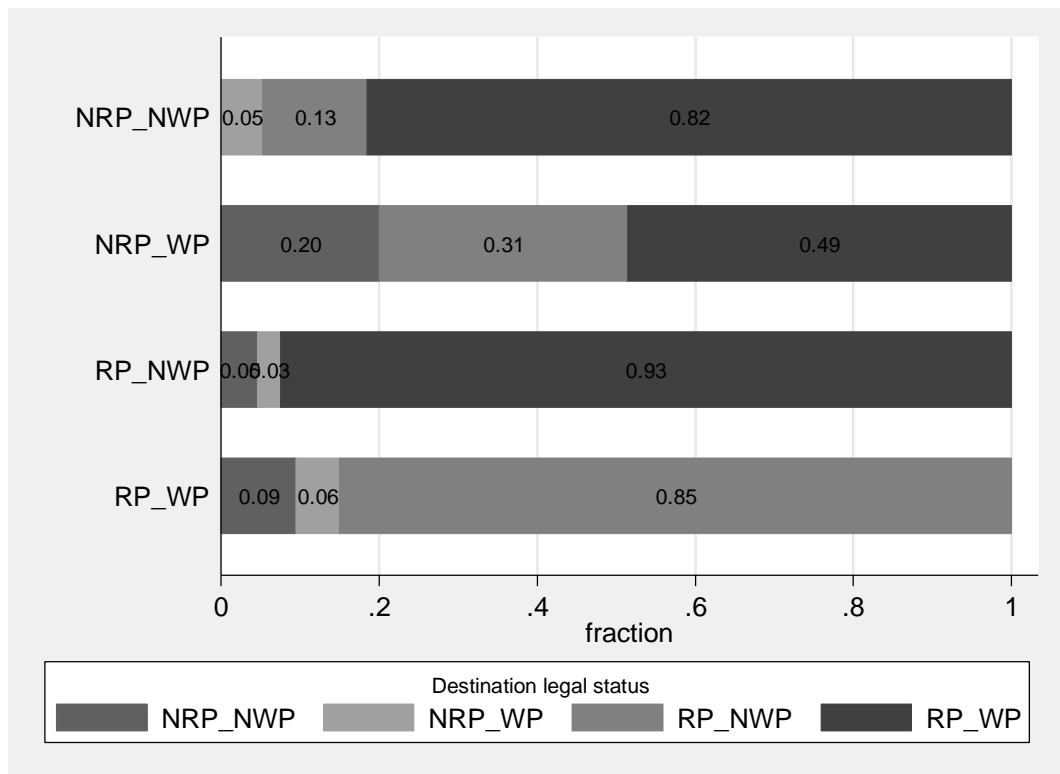
### 3.5.3 Pathway: *Befallen Irregularity*

Unlike the pathways of no-visa entry and overstaying, the determinants of the pathway of *befallen* irregularity are prior legal status, while there is little evidence of contextual variation or relationship to forms of capital. The overall probability of transition from fully regular or semi-irregular statuses to fully irregular status is quite low: a basic life table (not reported) indicates that less than 4% of migrants at risk for this transition ever actually experience it. This provides descriptive evidence that migrants with fully regular or semi-irregular statuses are unlikely to transition to fully irregular status. This finding is borne out by the graphical transition matrix of Figure 3.7, which shows that transitions into full irregularity are rare among migrants who change status; indeed, the most common transitions seem to be into fully regular status (RP\_WP).



Model III of Table 3.4 displays results from the discrete-time survival analysis of befallen irregularity, and indicates that origin legal status—the status from which a migrant may transition into fully irregular status—is one of the strongest sets of predictors in the model. Migrants with fully regular status are less likely to transition to irregular status than those with either semi-irregular status. Figure 3.8 depicts predicted probabilities of befallen irregularity, and shows that the predicted probability for fully regular migrants of transitioning to fully irregular status is less than half of the average predicted probability for migrants with semi-irregular statuses. There is thus evidence that fully regular status is quite “sticky,” i.e., transitions from it into full irregularity are rare. The low (close to 1%) predicted probabilities of befallen irregularity for migrants with semi-irregular legal status suggest that transitions into full irregularity are rare from any prior status.

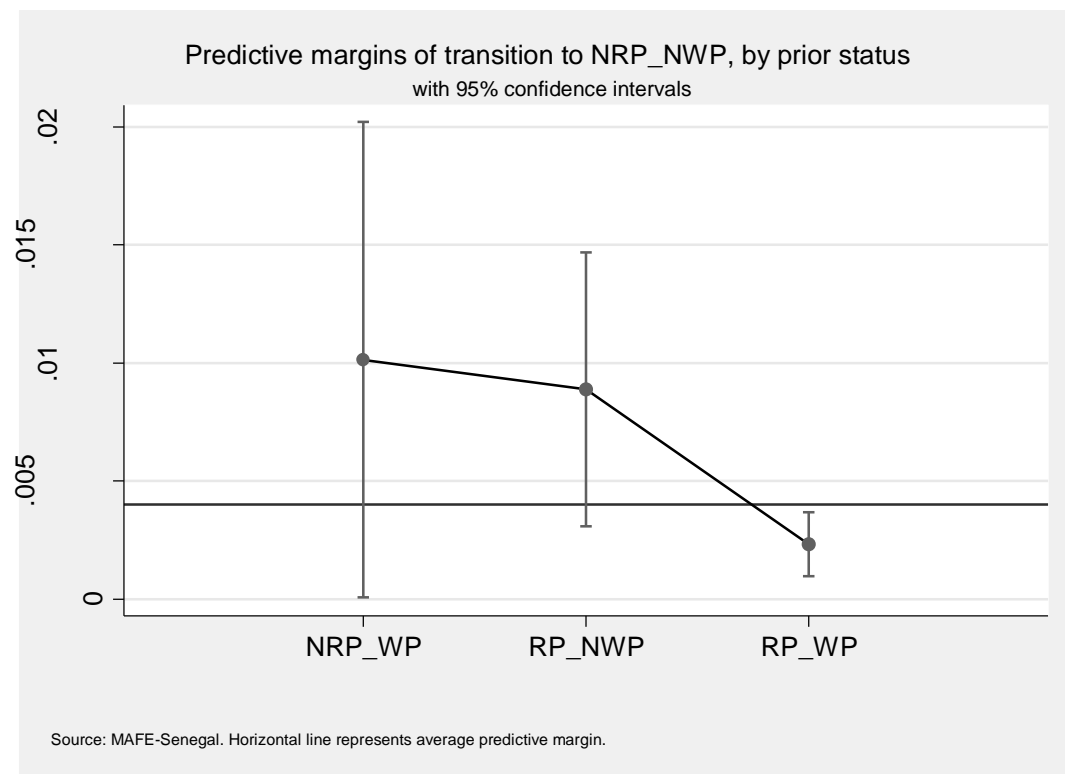
Figure 3.7: Legal status transitions



Unlike previous pathways, context— destination and period of arrival—does not have a statistically significant relationships with befallen irregularity. While origin legal status is strongly related to the probability of transitioning to fully irregular status, entry status is not. Forms of capital are also not

significantly related to this transition, with the exception of the number of previous migrations. The positive relationship between number of migrations and the probability of befallen irregularity suggests that previous migration experience may help navigate a destination’s institutions and labor market in an irregular status. Among predictors indicating links to destination institutions, only the employment variable is associated with befallen irregularity: being unemployed is negatively related to this transition. Surprisingly, neither having a spouse nor having children in the same destination is protective of falling into irregularity.

Figure 3.8: Predictive margins of transition to NRP\_NWP, by prior status



Among the remaining predictors, the duration of the legal status before transition, the number of legal-status spells, and Wolof ethnicity are all negatively related to the probability of transitioning to fully irregular status. The duration and number of spells variables indicate that transitions to irregularity, if they occur, happen early in migrants’ stay in a destination country, and that experiencing multiple kinds of legal status help migrants avoid fully irregular status. While indicators of context are not statistically significantly related to befallen irregularity, the ethnicity and employment variables are suggestive of

contextual effects. Non-Wolof migrants are concentrated in France, and literature suggests they are mainly Soninké from earlier migration flows (Timera and Garnier 2010); this may be indicative of transitions to irregularity under France's somewhat lax immigration regime of the 1960s and early 1970s.

### **3.6 Discussion**

Literature on the pathways into irregular legal status has drawn on insights from research on the “legal production of illegality” to insist on the importance of context in setting the parameters that shape the pathways in a given context of reception. This literature has also challenged dominant binary conceptualizations of legal status by examining multiple forms of irregularity and changes in these often-fuzzy statuses over time. This paper has drawn on these insights to study three pathways into irregular status among Senegalese migrants in France, Italy, and Spain: no-visa entry, overstaying, and befallen irregularity.

In keeping with the literature on the legal production of illegality, this chapter hypothesized that context—both destination country and period—would play a preponderant role in structuring all of the pathways by setting the legal parameters of irregularity. The results, however, showed that context was more important in structuring pathways that occur early in the migrant's trajectory—no-visa entry and overstaying—than subsequent transitions to irregularity. The pathway of no-visa entry was more likely in Spain and Italy than in France, and the prevalence of no-visa entry rose monotonically over time in the southern European countries, while it peaked in France in the 1990s. Context likewise had a strong association with the pathway of overstaying: irregular first status more likely for those entering with visa in Italy and Spain than in France, with the strongest relationship in Italy. The probability of irregular first status also increased monotonically over time by period of arrival.

The effects of context were less clear, however, for changes in legal status once migrants were established at the destination. There was virtually no direct relationship between context and befallen irregularity. This contrasts with research that shows that status transitions are common in southern Europe (Fasani 2010; González-Enríquez 2010) or with the review in chapter 2 that outlines the multiplication of various

pathways into irregularity. These findings suggest that context is more important in shaping the pathways that occur closer in time to the act of crossing a border.

The political discourses (Vollmer 2011) and resources devoted to border control in all three destinations (Courau 2009; Fasani 2010; González-Enríquez 2010) may help make sense of the stronger relationship that contextual indicators have to these earlier pathways. The policy and legal parameters surrounding entry have varied the most between destinations and over time, with a pronounced evolution towards restrictiveness and a resultant externalization of control mechanisms (Brochmann 1999). Increased border surveillance and tighter visa requirements are common responses in France, Italy, and Spain to political pressures at both the national (Freedman 2004; Sciortino 1999; González-Enríquez 2009) and EU level (Finotelli and Sciortino 2009) to appear “in control” of migration.

As many studies of immigration control have shown, though, policies often have unintended consequences (Brochmann 1999). Increased external controls have created irregular entry flows directly by definition, and have, as a result, transformed regular flows into irregular ones. At the same time, these restrictive entry policies will make migrants less likely to depart once in destination because of increased risk and costs of entry; this may favor the production of irregularity in the first legal status at destination. These dynamics resemble features of the Mexico-United States migration system, where increased border control has led to more undocumented migration and longer stays of undocumented migrants (Massey, Durand, and Malone 2002). The increases of no-visa entry and overstaying thus underline that irregularity is a manufactured state rather than a characteristic of the migrants themselves.

In contrast, policy attention given to border control and controlling geographic flows has often meant a relative negligence of frameworks governing migrants’ integration once at destination (Sciortino 1999; Freedman 2004; González-Enríquez 2009; Finotelli and Sciortino 2009). This is borne out by the MAFE-Senegal data: changes of status are somewhat rare (less than 50% of the sample changed status), and they are not tightly linked to context. This suggests that those transitions that do take place may not be systematically produced by sociolegal frameworks that vary over destination and time, but instead are

embedded in logics of integration that have not been major policy concerns, perhaps because of general acceptance or ignorance of migrants' irregular status once they are established at a destination.

This study also drew on the literature on expanded conceptualizations of irregularity to hypothesize that there would be systematic links between various pathways of irregularity. Prior no-visa entry was strongly predictive of current no-visa entry. Previous undocumented border crossing could thus be considered as a form of migration-specific capital that makes future undocumented trips more likely, a finding that is common in the US context (Massey and Espinosa 1997). Entering *with* a visa on the current trip, on the other hand, was strongly predictive of transition to fully irregular first legal status in Italy and Spain. For these migrants, a visa may simply be a springboard into informal employment in societies that have a higher tolerance of irregularity; in France, on the other hand, even migrants with visas have a fairly low predicted probability of transitioning to fully irregular status, implying that there may be more stable paths to regularity or more intolerance of irregularity there. In contrast, there was no association between entry status and subsequent transitions to irregularity, indicating that befallen irregularity later in Senegalese migrants' stays at destination is not related to the mode of entry. At the same time, the results from the transition model suggests that legal statuses are sticky: migrants with fully regular status were less likely to transition to irregular status than those with semi-irregular statuses, indicating that fully regular status is difficult to lose once gained. Once again, this could be interpreted as a form of capital, this time in the legal domain: Senegalese migrants are able to convert their experience in regular status into a lower probability of falling into irregularity.

Taken together, these results paint a picture of interlinked pathways of irregularity with complex relationships between different pathways. Entry *with* a visa, not irregular entry, is closely related to first-status irregularity in southern Europe, while it is unrelated to later transitions into irregular status. While policies focus on preventing irregular entry, these results show that this externalization of control may simply be deferring Senegalese migrants' irregularity to after arrival and creating demand for regularization mechanisms, either through formal programs or entitlement-based adjustments of status. Externalization of control thus seems to do little to prevent irregularity; indeed, it creates a robust pathway into irregularity in the form of overstaying.

Forms of capital, identified in much previous research as important correlates of both migration and integration, seem to be similar to context in that they are important for access to pathways that occur early on in the migration spell, and fade in importance for subsequent transitions. Entry without a visa was less likely for those migrants who self-reported good economic status prior to the migration, indicating that those who perceive themselves as better-off have easier access to visas. Indeed, the requirements for proof of resources and the financial means or ticket for the return trip that exist in most countries' visa policies are a built-in method of selecting potential migrants on economic lines, and they must mobilize significant resources to meet these requirements (Sciortino 2004). Previous no-visa entry and belonging to the Mouride brotherhood were positively associated with the probability of no-visa entry, pointing to the importance of migration-specific and social forms of capital in this pathway. Transition to first-status irregularity was the pathway the most strongly related to forms of capital: financial (family financial help and self-reported economic status), social (number of contacts at destination), and migration-specific (number of previous migrations) forms of capital all reduced the probability of irregular first status. While entering with a visa is resource-intensive, gaining regular legal status once in destination is even more so.

In contrast, there was almost no relationship between these indicators of access to resources and the probability of falling into fully irregular status. Instead, this transition seems to be more related to the migrant's connection to institutions in the destination country. Having children in the destination country is associated with a reduced probability of first-status irregularity, as is having a spouse at destination. These family links thus seem to be protective against transitions into less-secure irregular statuses. While this study has not examined the timing of the formation of unions or the birth of children and thus cannot speak to the exact mechanism behind these associations, migrants may be accessing regular status through legal provisions for family attachment, such as family reunification or marriage to citizens.

In addition to the family, the labor market is another institution that plays a role in structuring transitions between legal statuses. Unemployment is associated with a lower probability of befallen irregularity. Thus, holding a job is not necessarily protective against befallen irregularity. While somewhat paradoxical from the point of view of the literature that argues that unemployment can lead to irregularity through the loss of a formal job contract that would allow renewal of work and residence permits, the association between

employment and befallen irregularity could be an indication that Senegalese migrants who lose status are concentrated in informal labor markets. The fact that previous migration experience is also associated with befallen irregularity suggests that this form of migration-specific capital may help migrants navigate institutions such as the informal labor market (Reyneri 1998). Thus, befallen irregularity might be part of a logic of accumulation at the expense of documentation, which research suggests might be common among Senegalese migrants in Spain (Nieuwenhuyze 2008).

### **3.7 Conclusion**

Irregular migration is a controversial topic in most migrant-receiving countries around the world. Recent estimates put the undocumented population of the US at over 10 million (Passel and D’Vera Cohn 2011), while Europe’s irregular population is estimated to be somewhere between 3 and 5 million (Düvell 2011b). Unfortunately, understanding of this phenomenon in Europe is hampered by policy discourses and political processes that use “numbers games” (Sciortino 2004; Vollmer 2011) to placate public outcry over irregular migration by increasing border controls at the expense of the integration of migrants already in destination countries. While academic research has sought to improve methods of “counting the uncountable” to better frame policy debates, many studies have used a simplified dichotomous conceptualization of irregular status that both privileges examinations of only one pathway to irregularity (undocumented border crossing) and hides heterogeneity in legal statuses.

This chapter has attempted to contribute to the growing literature calling for a more complex conceptualization of irregularity by examining the pathways into irregular statuses among Senegalese migrants in Europe. Context plays a strong role in shaping no-visa entry and overstay, pathways that occur early in the migration trajectory. These pathways are likely to be the most responsive to variation over time and across destination of the sociolegal parameters of legal status since most of these parameters have increasingly converged on preventing irregular entry. These early pathways of irregularity are also responsive to migrants’ various forms of capital: migrants who have greater access to financial, human, and social capital are less likely to follow these paths into irregularity; migration-specific social capital in the form of prior no-visa entry facilitate current no-visa entry, but an increase in the number of previous trips

protects against first-status irregularity. On average, then, access to resources gives migrants more options in terms of legal channels.

Transitions in legal status, such as overstaying and befallen irregularity, are more responsive to links to institutions in the destination country, suggesting that migrants participate actively in seeking pathways out of irregularity as part of a project of integration (Nieuwenhuyze 2008). Employment is, somewhat paradoxically, related to increased probability of loss of regular status, which suggests that the link between labor market participation and legal status depends crucially on whether or not the migrant works in the formal sector.

In addition to findings on context and links to institutions, this study found that previous legal status was an important predictor of all of the pathways. This supports the emerging view in research on legal status that a static binary measure of legal status is not sufficient to capture the complexity of legal status categories and transitions over migrants' life courses. This study thus contributes to the call for disaggregating legal status (Donato and Armenta 2011) and examining connections between different kinds of legal status. Furthermore, these findings present an important point of articulation with research that sees legal status as an increasingly important axis of stratification (Massey 2007; Donato and Armenta 2011) and could open the door to studies that examine status mobility in the same vein as studies of traditional social mobility. Understanding the potential structuredness and path-dependency of forms of irregularity could shed new light on the impact of irregularity on migrants' life chance.



Appendix A: Raw coefficient estimates

Predictor	Model									
	I. No-visa entry		II. Visa overstay						III. Befallen irregularity	
	b	se	NRP_WP		RP_NWP		RP_WP		b	se
b			se	b	se	b	se			
Period: pre-1991 (ref.)	0	.	0	.	0	.	0	.	0	.
Period: 1991-2000	1.85***	0.45	-0.57	0.79	-0.74	0.55	-0.53	0.42	0.43	0.64
Period: 2000-2008	1.63**	0.50	-1.27	0.80	-0.95+	0.54	-1.01*	0.40	-0.57	0.72
France (ref.)	0	.							0	.
Spain	1.77**	0.60	-1.47	1912.0	-0.31	0.94	-0.22	0.67	0.22	0.67
Italy	0.27	0.69	14.6	1142.1	2.66**	0.99	1.70*	0.75	0.77	0.52
1991-2000 X Spain	-1.74*	0.69	14.3	1533.4	0.98	0.92	0.64	0.69	-	-
1991-2000 X Italy	0.85	0.76	0.59	1.10	-1.35	0.96	-1.33+	0.70	-	-
2000-2008 X Spain	-0.87	0.67	16.0	1533.4	0.55	0.86	0.25	0.66	-	-
2000-2008 X Italy	1.01	0.75	0.68	1.09	-1.38	0.89	-2.03**	0.71	-	-
No regularization year	0	.	0	.	0	.	0	.	0	.
Regularization year	-0.39+	0.20	-0.42	0.39	-0.25	0.28	-0.38+	0.21	0.60	0.39
No previous mig. exp.	0	.	-	-	-	-	-	-	-	-
Previous mig. exp. w/visa	-0.012	0.42	-	-	-	-	-	-	-	-
Previous mig. exp. w/out visa	1.83**	0.70	-	-	-	-	-	-	-	-
Did not enter with a visa	-	-	0	.	0	.	0	.	0	.
Entered with a visa	-	-	16.0	1142.1	0.34	0.55	0.23	0.38	0.36	0.40
Spain X Visa entry	-	-	0	.	0	.	0	.	-	-

Predictor	Model									
	I. No-visa entry		II. Visa overstay						III. Befallen irregularity	
	b	se	NRP_WP		RP_NWP		RP_WP		b	se
b			se	b	se	b	se			
Spain X No-visa entry	-	-	-14.9	1142.1	-0.49	0.74	-1.50**	0.53	-	-
Italy X Visa entry	-	-	0	.	0	.	0	.	-	-
Italy X No-visa entry	-	-	-15.1	1142.1	-2.38**	0.80	-2.11***	0.61	-	-
Legal status: NRP_WP	-	-	-	-	-	-	-	-	0.15	0.68
Legal status: RP_NWP	-	-	-	-	-	-	-	-	0	.
Legal status: RP_WP	-	-	-	-	-	-	-	-	-1.43**	0.49
Not return migrant	0	.							0	.
Return migrant	1.17**	0.38	1.06+	0.61	1.43**	0.48	0.12	0.40	0.097	0.73
Years of education	-0.045*	0.019	0.036	0.040	0.059*	0.028	.075***	0.021	0.031	0.045
Speaks language of destination	0	.	0	.	0	.	0	.	0	.
Doesn't speak language of desination	-0.36	0.22	0.016	0.49	0.35	0.34	-0.14	0.26	-0.95	0.63
No financial help of family	0	.							0	.
Financial help of family	-0.32	0.22	0.45	0.40	0.97**	0.32	0.39+	0.23	0.12	0.55
Bad self-reported economic status <sup>1</sup>	0	.	0	.	0	.	0	.	0	.
Good self-reported economic status <sup>1</sup>	-0.83*	0.39	-0.42	0.90	-1.31	0.81	-0.021	0.53	-1.00	1.42
Number of contacts at dest.	0.0016	0.090	0.13	0.093	0.14*	0.064	0.098+	0.053	-0.095	0.14
Number of trips			-0.0034	0.26	0.46**	0.16	0.47***	0.13	0.33*	0.13
No kids at dest. <sup>1</sup>	0	.	0	.	0	.	0	.	0	.
Kids at dest. <sup>1</sup>	0.46	0.44	1.33	1.28	1.00	0.72	1.45*	0.62	-1.27	1.17
No spouse at dest. <sup>1</sup>	0	.	0	.	0	.	0	.	0	.
Spouse at dest. <sup>1</sup>	0.53	0.52	0.79	1.39	0.35	1.06	1.33+	0.79	-0.072	0.71
Unemployed <sup>1</sup>	0.14	0.38	0.95	0.92	-2.26**	0.70	-0.91+	0.47	-2.26**	0.77
Employed <sup>1</sup>	-0.26	0.24	1.47*	0.71	-1.57***	0.34	-0.47+	0.28	0	.
Inactive <sup>1</sup>	0	.	0	.	0	.	0	.	-	-

Predictor	Model									
	I. No-visa entry		II. Visa overstay						III. Befallen irregularity	
	b	se	NRP_WP		RP_NWP		RP_WP		b	se
b			se	b	se	b	se			
No definitive plans to stay	0	.	0	.	0	.	0	.	0	.
Definitive plans to stay	0.32+	0.19	-0.23	0.38	0.087	0.29	-0.034	0.21	0.098	0.49
Motive: other	0	.	0	.	0	.	0	.	0	.
Motive: work	-0.11	0.20	-0.26	0.43	-0.74*	0.31	-0.14	0.23	-0.031	0.51
Age at migration	0.032*	0.014	0.023	0.030	0.032	0.020	0.025	0.016	0.011	0.034
Female	0	.	0	.	0	.	0	.	0	.
Male	0.24	0.21	0.21	0.44	0.29	0.33	-0.12	0.24	0.13	0.65
Ethnicity: other	0	.	0	.	0	.	0	.	0	.
Ethnicity: Wolof	0.18	0.20	-0.79*	0.40	-0.11	0.31	-0.14	0.23	-1.16*	0.48
Religion: other	0	.	0	.	0	.	0	.	0	.
Religion: Mouride	0.73***	0.19	0.25	0.41	-0.22	0.32	-0.58*	0.24	-0.49	0.50
Geographic origin: other	0	.	0	.	0	.	0	.	0	.
Geographic origin: Dakar	-0.096	0.20	0.42	0.37	-0.62*	0.29	-0.61**	0.22	1.02*	0.48
Father's education: more than secondary	0	.	0	.	0	.	0	.	0	.
Father's education: less than secondary	-0.23	0.20	-0.33	0.40	-0.59*	0.28	-0.19	0.23	0.068	0.49
Status duration	-	-	-	-	-	-	-	-	-0.27**	0.099
Num. of status spells	-	-	-	-	-	-	-	-	-2.11**	0.80
Constant	3.04***	0.59	-18.8	1142.1	-1.86+	1.00	-0.50	0.75	-1.69	1.69
N	763		763						6731	
chi2	121.1		403.6						165.8	
Log likelihood	-395.4		-690.4						-122.5	
Pseudo-R2	0.20		0.23						0.30	
Reference outcome	Entry with visa		NRP_NWP						not NRP_NWP	

Predictor	Model							
	I. No-visa entry		II. Visa overstay				III. Befallen irregularity	
	b	se	NRP_WP		RP_NWP		RP_WP	
b			se	b	se	b	se	

Source: MAFE-Senegal. Notes: 1: variable measured prior to migration for model I. + p<0.1, \* p<0.05, \*\* p<0.01, \*\*\* p<0.001. Logit coefficients displayed. Predictors with a "0" coefficient and a "." standard error represent reference category. Predictors with "-" listed for coefficient and standard error were not included in the model.

## **Chapter 4. Legal status, gender, and economic incorporation of Senegalese migrants in France, Italy, and Spain**

### **4.1 Introduction**

The economic integration of migrants is a major concern for policy makers, as is the legal status of immigrants in the labor market. While immigration-control legislation that confers residence and work authorization should theoretically mediate migrants' access to the labor force, the presence and economic activity of millions of undocumented migrants in different receiving countries indicates that irregular legal status is often not a barrier to work. Indeed, some research suggests that immigrants are able to find work precisely because of their irregular status, which removes most legal recourse against exploitation by unscrupulous employers (Portes 1978). Migrants are thus assumed to have economic motivations for their migration and to work in the destination economy regardless of their legal status.

This common perception of the link—or lack thereof—between migrants' legal status and their economic incorporation fails to consider the role of gender. While post-war labor migration, both regular and irregular, to the U.S. and Western Europe was mostly male, flows of immigrants since the 1970s have seen an increasing share of women. Many of them entered through legal channels of family reunification (Kofman 1999). Although research has underlined the heterogeneity of these migrant women's legal and economic situations, family-reunification policies have been highly gendered and have largely consigned women to economic and administrative dependency on their male sponsors. In addition, different countries award different configurations of authorizations to reunified family members, thus creating different forms of dependency (González-Ferrer 2011b).

Despite possessing a form of regular legal status, then, migrant women may initially be less likely to work than their male counterparts. While this has provoked concerns about the growing numbers of inactive and “unproductive” migrants in some countries (Constant and Zimmermann 2005), the initial gendered asymmetry of economic integration may obscure subsequent mobility among women into the labor market. The impact of legal status on economic integration thus seems to depend crucially on gendered channels created by immigration policies.

This chapter will draw on the literature on the gendering of immigration policies to examine the link between legal status and economic incorporation of Senegalese migrants in France, Italy, and Spain. It argues that the effect of legal status on Senegalese migrant's labor-market participation will vary differ for men and women because of gendered immigration policies. The chapter is organized as follows. The next section reviews the literature on gendered immigration policies and the creation of migrant women's economic and administrative dependency. The third section lays out the chapter's hypotheses. The fourth section reviews the data and presents the methods. The fifth section presents the results, and the sixth section discusses the findings and concludes.

## **4.2 Literature review**

### ***4.2.1 Gendered channels of migration: family reunification, legal status, and dependency***

Research since the 1980s has increasingly focused on the exclusion of women from studies of the economic incorporation of migrants (Kofman 1999, 2004a). One of the main insights of this body of research is that immigration policies, while officially gender-neutral, have differential impacts on the mobility and subsequent economic integration of male and female migrants (Lesselier 2008). Men were the primary beneficiaries of labor-recruitment policies in both the US and Western Europe up through the 1960s and 1970s (Mahler and Pessar 2006; Lesselier 2008). Governments, especially those in Western Europe, severely restricted these legal channels of labor immigration after the mid-1970s, but continued to allow migrants legally residing in destination countries to bring close family members under family reunification schemes.

Indeed, family reunification has become the main channel of legal entry to most Western European countries (Kofman 1999). In France, for example, 70% of entries in 2008 were for family reasons, and family reunification with long-term foreign residents make up between 90,000 and 150,000 entries per year since 2000 (Lesselier 2008). Research has shown, though, that family reunification is highly gendered: women, mostly spouses, make up the majority of reunified family members (Kofman 1999). Fully 80% of the aforementioned annual entries for family reunification in France were women (Lesselier 2008). While not all women are reunified spouses—research has increasingly pointed to a growing “feminization” of

autonomous migration (Kofman 2004b)—family reunification remains the dominant channel of entry for women into most destinations and structures their legal and economic incorporation.

#### *4.2.1.1 Reunification and gendered economic and administrative dependency*

Research has shown that family reunification policies create economic and administrative dependency for women, and that these forms of dependency have implications for women's economic participation in destination-country labor markets (Boyd 1997; Lesselier 2008). Economic dependency among reunified spouses may arise from the legal requirements of demonstration of means of support by the sponsor. Family reunification policies often define male migrants as the primary breadwinners through the economic conditions imposed for reunification (Kofman 2004a; Mahler and Pessar 2006), creating economic dependency of women on their husband's income (Lesselier 2008). Reunified spouses may thus be less likely to work because of their sponsors' relatively high socioeconomic status (Toma 2012).

Economic dependency of reunified spouses may also arise because of legal barriers to their labor-market participation. Legislation may formally prevent women from accessing the labor market by imposing waiting periods on the ability of reunified spouses to apply for and receive work permits, as is the case in Italy and Spain (Kofman 1999). The separation of residence and work permits that is common in Europe thus means that the legal right to reunify is not always synonymous with the legal right of reunified spouses to enter the labor force (Boyd 1989). Indeed, research on the "admission category" of migrants has generally found that refugees and reunified family members have worse labor-market outcomes than those of economic migrants (Constant and Zimmermann 2005); these findings demonstrate the barriers that admissions policies impose rather than the motivations or unobserved characteristics of the admitted migrants (González-Ferrer 2011a). Reunified women who are excluded from the labor force as a result of legal waiting periods are thus dependent on their spouses for economic support, or they are forced to work illegally. Indeed, reunified women who have economic in addition to family motivations for migration may bypass the legal reunification channel because it is, in effect, no different from irregular channels of reunification in terms of accessing the labor market (González-Ferrer 2011a).

In addition to economic dependency as a result of family reunification, women are often subject to administrative dependency. Immigration legislation makes the possibility of reunification conditional on the sponsor's regular legal status (Lesselier 2008). Women wishing to rejoin their husbands legally are therefore dependent on his acquisition of regular legal status. In addition, the legal status of reunified spouses after arrival is dependent on the primary migrant's continued possession of regular legal status and the continuation of the marriage (Lesselier 2008). Women's geographic mobility is thus subject to dependency both in relation to the state and within the household (Kofman 2004b). These asymmetric power relations may reduce women's autonomy in making decisions about labor-market participation by tying them administratively to a husband's legal situation. This dependency can decrease women's bargaining power within the household, giving them less voice in their husbands' decisions in the allocation of their labor to either productive or reproductive efforts (Kofman 1999). In countries such as France where there is no waiting period for applying for a work permit, administrative dependency can still hamper reunified wives' labor participation by tying women's legal right to work to men's regular status (Lesselier 2008).

The administrative dependency fostered by family reunification also creates a gendered pathway into irregular status. Family reunification is not an automatic right conferred on migrants; on the contrary, states have imposed increasingly restrictive conditions that primary migrants have to meet before being allowed to bring family members to the destination country (Kofman 2004a). These conditions often require the sponsor to have a minimum period of prior residence, a stable income, and adequate housing in addition to regular legal status. The reunification of women whose husbands lack regular status or any of the other legal conditions must take place outside of the formal legal channel of reunification—for example, by overstaying an entry for tourism or other purposes (Lesselier 2008). Empirical research has shown that restrictive conditions do indeed lead to the incentivization of reunification outside or on the fringes of the legal system, especially among reunified wives who work upon arrival (González-Ferrer 2011b).

#### *4.2.1.2 Family reunification regimes and configurations of legal status*

The specific legal rights granted to reunified migrants varies across destinations, giving rise to different configurations of legal status corresponding to different types of migrants in different countries. For the



purposes of this chapter, it is useful to examine the configurations of legal status granted to reunified spouses in France, Italy, and Spain. In France, the legal reunification channel has consistently conferred the legal right to reside and work to reunified spouses (Lesselier 2008). Thus, women who follow the legal channel in France have legal authorization to work upon arrival. In Italy and Spain, however, immigration legislation has imposed a waiting period on reunified spouses' access to the labor markets; reunified spouses are thus likely to possess a residence permit but lack a work permit (Kofman 1999; González-Ferrer 2011b). The legal status granted to the category of "reunified spouses" and the concomitant legal access to the labor market thus varies across destinations. This variation is captured in the typology presented in Table 4.1.

Table 4.1: Typology of female migrant types by legal status and country

Country	Legal status		
	<i>Regular</i>	<i>Mixed</i>	<i>Irregular</i>
<i>France</i>	Reunified spouse	Student	Multiple
<i>Spain</i>	Worker	Reunified spouse	Multiple
<i>Italy</i>	Worker	Reunified spouse	Multiple

Identical configurations of legal status can signal different types of migrants under different legal regimes, as is evident in Table 4.1. For example, migrants in France who lack a work permit—the legal status afforded to reunified spouses in Italy and Spain—are likely to be students. In contrast, migrants in Spain and Italy with both a residence permit and a work permit—the legal status afforded to reunified spouses in France—are most likely labor migrants. There is thus substantial heterogeneity in the formal rights accorded to different admissions categories, making it imperative to examine both family context and legal status when considering the effect of family reunification on women's economic integration.

#### **4.2.2 Reunified women and the labor market**

The economic and administrative dependency created by legal channels of family reunification may thus constrain women's legal participation in the labor force. Women have been marginalized in labor migration in part because many immigration policies implicitly assume that women are passive followers who do not seek employment (Kofman 2004a). Early research on the link between family ties and women migrants' economic participation tended to confirm this image. The "family migration model" (Sandell 1977) has

traditionally seen migration as a disruptive event in women's work lives: women are assumed to move as part of a family migration unit, and thus will still migrate even if they are expected to have lower participation rates after arrival because the net benefit of a move for the family unit as a whole is positive (Sandell 1977; Mincer 1978).

Nonetheless, while the predominance of the family reunification channel for women has limited their ability to migrate and work independently, reunification does not necessarily preclude participation in the labor force. Research has shown that family migration, far from hampering a tied mover's economic participation, can often lead to women's employment: the "family investment model" contends that women whose spouses have the highest expected earnings in a destination may actually be more likely to participate in the labor force and to be employed as a way of supporting their husbands' investments in destination-specific human capital (Duleep and Sanders 1993). Women's family context and the potential labor-market success of a spouse thus emerge as important determinants of their labor-market performance.

Given that admission category/type of migration is not necessarily synonymous with the often multifaceted motivations for migration, it is also important to be attentive to transitions over time in both legal status and labor-force participation after the year of arrival. Immigration policies with waiting periods build into their reunification regimes eventual transitions from the initial status defined by this entry category: reunified spouses can eventually apply for formal permission to enter the labor force. Women's and households' preferences about the allocation of female labor may also shift over time, meaning that even reunified spouses who do not initially work despite a legal authorization to do so may eventually end up in the labor force. Transitions into the labor market have been observed among reunified spouses, leading to the observation that family migration does not mean the end of labor migration, only its transformation because many family migrants eventually end up as de facto labor migrants (Kofman 1999). Indeed, women may have economic motivations for "associational" moves, and may use family reunification strategically to enter labor markets while at the same time following socially sanctioned channels of mobility (Kanaiaupuni 2000).

When women do work, a gendered labor market funnels women into specific jobs, mostly in the informal sector (Lesselier 2008; Kofman 1999). An example is the increasing demand for domestic workers, especially in Southern Europe, which draws women into low-skill, low-wage work (Kofman 1999, 2004b). Some countries, such as Italy and Spain, actively recruit female workers via employment quotas for low-skill domestic work (Kofman 2004b), while immigration legislation has also pursued high-skill migrants who tend to be male (Raghuram 2004; Lesselier 2008). Thus, when immigration policies allow female migrant labor, they actively channel women into specific low-wage sectors of the economy (with the exception of some female high-skill healthcare professionals, see Raghuram 2004). In countries such as France where legal channels of labor immigration do not include such gendered occupations, women migrating autonomously for work are especially likely to do so irregularly (Lesselier 2008). Immigration policies thus conspire with gendered labor demand to create differential legal immigration channels and pathways of irregularity for men and women.

#### **4.2.3 *Limitations of existing research***

It is thus clear that the labor-market participation of female migrants is heterogeneous and is linked to their family context and the legal opportunities afforded by family-reunification policies, but much existing research on the legal status and immigrant economic incorporation has been blind to the gendered nature of immigration policies and the legal statuses they create. Most studies in the US context do not examine the possibility that the effect of different legal statuses might differ for men or women, nor do they consider alternative measures of economic incorporation such as labor-market participation or employment.

Research in Europe has considered employment as an outcome in a context with institutional variation in labor markets across multiple contexts of reception, but has not been able to measure legal status or its differential effects for men and women.

##### **4.2.3.1 *Assuming participation: undocumented status and wages in the US***

Most studies of the link between legal status and migrant economic incorporation in the US find that undocumented status is associated with lower wages. Much of this research has used data from the Legalized Population Survey (LPS), conducted with a sample of undocumented migrants who were legalized by the 1986 Immigration Reform and Control Act (IRCA), to show that legalization was

associated with an improvement in the economic opportunities among migrants whose status was adjusted (Rivera-Batiz 1999; Kossoudji and Cobb-Clark 2000; Kossoudji and Cobb-Clark 2002); gaining regular legal status thus contributed positively to economic outcomes for migrants. At the same time, research has found that undocumented migrants faced additional deterioration in their earnings as a result of the stiffer penalties of this legislation, with employers passing on to them the costs and risks of unauthorized hiring (Donato and Massey 1993; Phillips and Massey 1999). Recent research, using recent longitudinal data with a larger comparison group and growth-curve modeling techniques, has continued to uncover disparities in earnings between documented and undocumented migrants (Hall, Greenman, and Farkas 2010).

The assertion of a negative effect of undocumented status must be re-examined in light of the gendering of both migration policies and labor-market participation. Unfortunately, the studies cited above focus only on the United States and almost exclusively on Mexican men. While undoubtedly an important case to study given high share of all immigrants in the US that this group makes up, it is also a case with a distinct history and social and economic infrastructure (Massey, Durand, and Malone 2002) that, in some ways, might limit its generalizability. In looking almost exclusively at wages, these studies implicitly select only migrants who are both active in the labor market and employed. While some studies do attempt to model the effect of selection into the migrant labor force on wages (Massey 1987; Donato and Massey 1993), the issue of differential migrant participation in the labor market is not addressed as a main topic of concern.

The assumption of both activity and employment might have held for earlier migration flows that were dominated by single, male workers (Piore's (1979) "birds of passage"), but most migration streams, even among Mexicans to the US, have diversified in recent years. Women have made up larger shares of both documented and undocumented Mexican migrants since 1986, and accounted for 45% of all Mexican migrants in the US in 2004 (Donato et al. 2008). Research has shown, though, that Mexican men and women in the US have different motivations for migration: men tend to be motivated by employment and often move alone, while women almost always follow another family member and thus tend to have family motivations for their migration (Cerrutti and Massey 2001). The gendered nature of work means that these female migrants have different labor profiles than their male compatriots (Donato et al. 2008). Cultural understandings of women's role in the family have limited Mexican migrant women's ability to work: only

47% of Mexican-born adult women in the US were in the labor force in 2006, compared to 88% of Mexican-born adult men (Donato et al. 2008). Motivations and value systems thus combine with reunification policies to limit women's participation in the labor market. Migrant women's economic integration in destination countries thus differs from that of men, and a focus on wages as the principal indicator of integration as in the US case excludes many women from the analyses.

#### 4.2.3.2 *Ethnic penalties on employment in Europe, but no measures of legal status*

The European research on immigrant economic incorporation helps to fill some of the blind spots in the American literature. Unlike in the US, studies of immigrant labor-market incorporation in Europe, where unemployment has historically been higher among both native-born and foreign workers, take the explanation of the likelihood of employment as a point of departure. This research has found, in general, that immigrants can often face an "ethnic penalty" (Heath and Ridge 1983) that translates into lower rates of employment compared to similar native-born workers (see Reyneri and Fullin 2011 for a review).

This general finding is tempered, however, by an insistence on cross-national variations in both the composition of migrant flows and institutional factors in the destination countries such as immigration policies, labor-market structures, and welfare regimes. Kogan (2006) finds that male migrants from sub-Saharan Africa in fourteen European countries are substantially disadvantaged in their probability of employment compared to native workers even after adjusting for human-capital endowments, while migrants from Asia and Latin America have lower rates of unemployment than natives. This study also finds significant institutional variation across countries in the employment penalty: migrants face a lower penalty in countries with high demand for low-skilled labor, in countries with more flexible labor markets, and in countries with "liberal" welfare regimes, such as the UK and Ireland, that emphasize mobility and flexibility (Kogan 2006).

These cross-national institutional differences make a strong case for the importance of studying employment as an indicator of the labor-market incorporation of migrants (González Ferrer 2006). Earnings assimilation is a good measure of adaptation in countries with a flexible labor market and a low minimum wage, where immigrants can compensate for initial lower host-country human capital by

accepting lower pay (González Ferrer 2006); time spent in destination can help immigrants build human capital and “catch up” to natives in earnings, as has been found in the US (Chiswick 1978; Borjas 1985, 1995). Institutional features such as labor-market flexibility, however, vary cross-nationally, and in countries with less-flexible labor markets there has been little evidence of earnings assimilation. These are the labor markets identified by the cross-national research as subjecting immigrants to an employment penalty, and additional years in the destination might reduce earnings because of lack of initial attachment to the labor market (González Ferrer 2006). Assimilation in the probability of employment is thus the process of primary concern in understanding the labor-market performance of immigrants in highly regulated countries (González Ferrer 2006).

Unfortunately, the European cross-national research is hampered by a number of issues that limit its applicability to the study of the impact of legal status on immigrant economic incorporation. The biggest limitation is the inability of most studies to include direct measures of migrants’ legal statuses. Most studies simply compare legal immigrants to natives because data on legal status are not available: study designs either precluded sampling irregular migrants (Kogan 2006) or did not include questions on legal status (Bernardi, Garrido, and Miyar 2011). Even though studying the impact of legal status might not be the principle aim of these studies, they either acknowledge that the absence of unauthorized migrants in the sample may bias results (Kogan 2006) or point to the presence of unauthorized migrants as potential explanations for their findings (Bernardi et al. 2011). It is thus implicitly assumed that the legal limitations faced by migrants who lack regular status relegate them to temporary, low-skilled jobs in the informal sector that offer little opportunity for mobility, and that this unobserved heterogeneity contributes to the poor outcomes observed for all migrants (Bernardi et al. 2011).

The lack of direct measures of legal status also hamper European studies’ ability to examine the interaction between gendered family reunification policies, the legal statuses they create, and the differential economic outcomes of men and women. Those studies that do include measures of legal status often do not consider the gendered family and legal context of women’s work. Studies in Spain using the Encuesta Nacional de Inmigración (ENI) show that lack of regular status constitutes both a barrier to employment and a brake on earnings for immigrants in Spain (Bradatan and Sandu 2012; Amuedo-Dorantes, Malo, and Muñoz-Bullón

2013), but do not consider how the effect of legal status might vary for men and women nor do they differentiate between different types of migrants based on family context.

The literature reviewed above demonstrates that gender is a crucial factor to take into account when studying migration. While men certainly display a wide variety of motivations for migration, women's migration is extremely heterogeneous. Women are overrepresented in legal family-reunification flows, indicating that they face legal and social constraints on their mobility arising from the gendering of migration policies. At the same time, women also migrate outside of legal reunification channels, either as informal reunifiers or as autonomous migrants and with a wide variety of legal statuses. This diversity in types of female migration creates different labor-market trajectories. The existing literature on migrant economic incorporation is largely unable to deal with this diversity as it does not account for either differential labor-force participation or the interaction between legal status and gender. This chapter will adopt an approach that is sensitive to the diversity of female migration types while also comparing women to men.

#### ***4.2.4 Gender norms, family reunification, and work among Senegalese migrants***

Senegalese society is strongly stratified along gender lines, and this stratification has implications for Senegalese women's geographical mobility and economic integration. Toma (2012) reviews the literature on gender norms in Senegal and argues that gender strongly determines life prospects there. The "traditional conjugal contract" subordinates women to the authority of a breadwinner husband within the household and, by assigning women to household tasks, places them outside of public life (Toma 2012). The Senegalese nuptial system is patrilocal, with women residing with her husband's parents after marriage and providing labor to that household. Polygamy is also widespread in Senegal, and women must often inhabit the same household as their co-wives (Toma 2012). As a result of these gender norms, women's work outside the home is stigmatized. In addition, women tend to be less educated than men and thus less likely to participate in the labor force: according to Demographic and Health Survey (DHS) data, only 38% of Senegalese women were working in 2006, compared to 66% of men (Toma 2012).

Research on family reunification among Senegalese migrants in Europe has found that Senegalese are reluctant to reunify wives of male migrants, and has linked relatively low levels of reunification to traditional gender norms. Multi-sited families and conjugal distance are common in Senegalese society, meaning that spouses are used to physical separation (Beauchemin, Caarls, and Mazzucato 2013). While early Senegalese migration to France was based on a model of circular mobility wherein male migrants could regularly travel home to visit family and wives, increased state regulation and economic crisis in the mid-1970s (see chapter 2) made this mobility more complicated. Some Senegalese migrants responded by reunifying their wives in France, but reunification was never a universal objective of Senegalese migrants partly because of the difficulty of reunifying polygamous households (Beauchemin et al. 2013). In the new destinations of Italy and Spain, different social origins meant that Senegalese migrants were not subject to the same traditional authority as Senegalese migrants in France, but they also tended to be members of the Mouride Islamic brotherhood; combined with economic consideration, this religious adherence has made Senegalese migrants in new destinations also reluctant to bring their spouses from Senegal (Beauchemin et al. 2013). Evidence from the MAFE project indicates that only 13% of Senegalese migrants in Europe are a part of totally reunified families, while almost half live in a different country from their spouse(s) and child(ren) (Beauchemin et al. 2013).

Despite the reluctance of Senegalese migrants in Europe to reunify, research has also shown that family reunification remains an important channel for the migration of Senegalese women to Europe.

Approximately 40% of women in the MAFE sample reunite with a partner at destination, and having a partner abroad is associated with substantially increased odds of migration among Senegalese women (Toma 2012). While female autonomy is low in Senegal and independent migration of Senegalese women is socially discouraged, there is some evidence of increasing migration of single women from Senegal (Beauchemin et al. 2013). Nonetheless, even single Senegalese are unlikely to migrate without having ties to close family members at destination, indicating that even they face a degree of social control (Toma 2012).

Migration of Senegalese men to France began during the colonial period as a result of military conscription and intensified as demand for unskilled foreign labor increased during the French economic boom of the



1950s and 1960s (Manchuelle 1997). Senegalese men were also commonly employed in low-skilled manual jobs in France, especially as garbage collectors in Paris (Barou 1993). France closed its borders to labor immigration in 1974 and renegotiated the bilateral accord regulating Senegalese immigration in the same year, subjecting Senegalese to the necessity of a residence permit for the first time (see chapter 2). Some Senegalese men responded by reunifying their families in France starting in the 1970s (Timera 1997) and the Senegalese women who came to France eventually found work in unskilled service jobs (Barou 1993). In addition, high-skilled migrants and students from Senegal increasingly chose to go to France because of language ties and the similarities in the educational systems of the two countries (Toma 2012). These migrants often occupy white-collar jobs in the public administration

Senegalese migrants started to seek out new destinations in southern Europe (Riccio 2008), responding to the increasing difficulty in entering, working, and living in France along with the demand for inexpensive and flexible workers in the secondary and informal labor markets of Spain and Italy (Pascual de Sans, Cardelús, and Solana Solana 2000). Senegalese migrants first started settling in Italy in the late 1980s and worked as informal street peddlers in Rome and on the beaches of Italy's tourist areas (Schmidt di Friedberg 1993). While this occupation is associated with irregular legal status and inability to find a better job in the Italian labor market (Schmidt di Friedberg 1993; Riccio 2001), other Senegalese migrants may embrace this occupation as a part of a "transnational livelihood" (Kaag 2008). After Italian regularization campaigns in the late 1980s and early 1990s, Senegalese also moved to the north of Italy to work for wages in manual jobs in small industry, construction, and food processing (Tall 2008; Riccio 2008), while many others remain traders. Senegalese, like other African migrants, are concentrated in unskilled jobs in agriculture, construction, and services in Spain (Pascual de Sans et al. 2000). Jobs in Spanish agriculture tend to be seasonal and pay low wages; construction work tends to pay better but it also temporary (Toma 2012). In addition to these manual jobs, Senegalese also work in street peddling in Spain (Toma 2012). Quantitative research on Senegalese occupational trajectories has confirmed that Senegalese migrants experience a drop in occupational status after arrival in Europe (Obucina 2013).

These descriptions indicate diversity in the contexts of reception, legal statuses, and socio-demographic characteristics among Senegalese migrants in Europe. While some research has suggested that sub-Saharan

Africans living in Europe face difficulties in finding a job because of their low levels of qualifications (González-Enríquez 2009), other studies have found that work is relatively easy to come by, partly as a result of the rejection of manual labor among native-born workers, but that the wages are low and the working conditions poor (Pascual de Sans et al. 2000). This inconsistency likely reflects a difference in labor-market regulations and the extent of informal economies, as Senegalese migrants tend to face higher unemployment in France (Tall 2008), but tend to have worse jobs when employed in southern Europe.

These variations are also related to legal statuses: Senegalese migrants have benefitted from multiple amnesty programs in southern Europe that have allowed transitions between formal and informal work, while they have been increasingly subject to restrictive immigration-control policies in France, which has likely made such mobility difficult. Finally, the characteristics of Senegalese migrants differ across these countries: Senegalese migrants in France tend to be more educated than those in Italy and Spain, where they may have the greatest ability to convert their human capital into employment (Castagnone et al. 2013). There is also an extreme gender imbalance across these countries: 45% of Senegalese migrants in France are women, compared to only 23% in Spain and 15% in Italy (Toma 2012). This imbalance partly reflects differential preferences for family reunification across countries (Kaag 2008; Baizan, Beauchemin, and González Ferrer 2011) and thus has implications for both the legal statuses and the economic incorporation of Senegalese migrants.

### **4.3 Hypotheses**

The legal parameters governing family reunification and social parameters of the family context of individuals' migration are thus important determinants of both legal status of reunified spouses and their economic integration at destination. Given the gendered nature of family-reunification flows, these legal and social parameters are likely to be more important for women than for men. The economic and administrative dependency associated with family-reunification policies suggest that *Senegalese women migrating for family reasons in the context of legal family reunification will be less likely to work upon arrival than either women migrating autonomously or men.*

Cross-national variation in the rights accorded to reunified migrants suggests that different configurations of legal status in different countries will be related to both family reunification and economic integration (see Table 4.1). Regular status (having both a residence permit and a work permit) among Senegalese women in France is likely to indicate family reunification and thus be associated with lack of labor-market participation upon arrival. In contrast, mixed status (possessing a residence permit but lacking a work permit) among Senegalese women in Italy and Spain is likely to indicate family reunification and thus be associated with lack of labor-market participation upon arrival.

In contrast to Senegalese women who migrate for family reunification, *Senegalese women who migrate autonomously will be more likely to be employed upon arrival*. This category includes women with fully regular status in Italy and Spain. While women with mixed status in France are likely to be students, their relative autonomy may also make them more likely to seek to enter the labor market. Women with irregular status in all three countries may also seek to participate in the labor market; women with irregular status may be autonomous or non-formal family reunifiers, either of which could be consistent with economic motivations for migration.

Senegalese men's economic integration at destination, in contrast to that of Senegalese women, will not be as closely linked to channels of family reunification. Men's employment upon arrival will be more closely associated with cross-national variation in labor-market segmentation and demand for low-skilled labor as research has found that immigrants, even the undocumented, do not necessarily face an employment penalty in such economies; thus *Senegalese men in Italy and Spain will be more likely to work than Senegalese men in France*. Given the size of the informal economy in southern Europe, *irregular status may also be associated with increased employment among men*.

The empirical analysis will also focus on employment dynamics for both women and men. While family reunification may be related to inactivity among women during the year of arrival, it does not necessarily preclude eventual labor-market participation. Women who lack the legal authorization to work upon arrival can eventually apply for it, and those who possess work authorization from the beginning of their stay may

also eventually work. Thus, *Senegalese women who possess both a residence and work permit after the year of arrival are likely to make a transition into employment.*

As Senegalese men are likely to be in the labor force from the beginning of their stay at a destination, the analysis will focus on transitions out of employment (or, equivalently, into unemployment). *Senegalese men with regular status are likely to be the least likely to transition into unemployment* because of provisions in immigration legislation that link continued possession of legal status to formal employment and vice versa, especially in southern Europe (see chapters 2 and 3). On the other hand, demand for low-skilled labor and the extent of the informal economy in southern Europe also make informal employment easier to access and irregular status less burdensome, meaning that *irregular status may also be negatively associated with transitions to unemployment.*

#### **4.4 Data and methods**

This chapter uses the MAFE-Senegal data described in chapters 1 and 3. For this chapter, I will draw on the retrospective biographical data on Senegalese migrants' economic activities, union formation, child bearing, and administrative history. While the earlier chapters outline the sampling and data collection procedures, it is useful to note for the purposes of this chapter that women were oversampled in all locations to ensure sufficient numbers for separate gender analyses.

##### **4.4.1 The study population**

The sample for the analysis in this chapter includes individuals who have migrated at least once to Italy, France or Spain while they were greater than 18 (see chapter 1 for more details on the MAFE sampling and selection scheme). Returned migrants interviewed in Senegal are included if they spent at least a year in at least one of the destination countries. Individuals can have multiple periods of residence in or "trips" to one or more of these destination countries. The analytic sample thus comprises 7,881 person-years and 727 trips: 3,548 person-years in France (287 individual trips), 2,258 person-years (221 individual trips) in Italy, and 2,075 person-years (219 individual trips) in Spain. Sixty-five percent of respondents had only one trip, and an additional 21% had two trips.

The MAFE-Senegal data are well suited to this investigation because the multi-sited nature of the data collection reduces potential biases stemming from selective emigration and return (Massey 1987) through the inclusion of current and returned migrants. The data, in addition to reconstructing migrants' family and labor-market trajectories, also include extensive information on migrants' legal statuses during each year of residence abroad. Lack of such data on legal status has been a major impediment to investigations of the effect of legal status on labor-market performance of immigrants in Europe (González-Ferrer 2011a; Amuedo-Dorantes et al. 2013). The MAFE project also interviewed both women and men, allowing investigations of differential incorporation by gender. The sample includes 376 (57%) men and 286 (43%) women, although the weighted percentage of men is 70%.

#### **4.4.2 Outcome variables**

I will examine Senegalese migrants' labor-market performance in France, Italy, and Spain by focusing on three different outcomes: economic activity status during the year of arrival, transitions into (for women) or out of (for men) employment, and occupational category conditional on being employed.

##### **4.4.2.1 Economic activity**

The MAFE questionnaire asked respondents to identify their principal activity for each period of their lives. Respondents could answer that they were studying, economically active, unemployed, homemaking, retired, or otherwise inactive. I created a categorical variable to indicate whether migrants were working, unemployed, or economically inactive, with the last category including students, homemakers, retirees, and other inactive individuals. Table 4.2 presents weighted descriptive statistics for the sample, and shows statistically significant bivariate gender disparities in economic activity during the year of arrival: 2.7% of women and 8.5% of men were unemployed ( $p < .01$ ), 38% of women and 76% of men were employed ( $p < .001$ ), and 59% of women and 15% of men were inactive ( $p < .001$ ) during the first year in destination.

Although this last category is heterogeneous across the entire sample, it is strongly gendered: 85% of men who were inactive during the year of arrival were students and 91% of all economically inactive person-years among men were spent studying, while 73% of women who were inactive during the year of arrival were homemakers and 77% of all economically inactive person-years among women were spent

Table 4.2: Descriptive statistics

Variable	Year of Arrival						All person-years							
	Women		Men		Total		Women		Men		Total			
	mean	sd	mean	sd	mean	sd	mean	sd	mean	sd	mean	sd		
Legal status: irregular (NRP_NWP)	0.39	0.49	0.53	0.5	0.49	0.5	*	0.18	0.38	0.18	0.38	0.18	0.38	
Legal status: mixed (RP_NWP)	0.15	0.35	0.13	0.33	0.13	0.34	***	0.12	0.33	0.093	0.29	0.1	0.3	***
Legal status: regular (RP_WP)	0.47	0.5	0.35	0.48	0.38	0.49	*	0.7	0.46	0.73	0.44	0.72	0.45	*
Entry without visa	0.35	0.48	0.4	0.49	0.38	0.49		0.36	0.48	0.45	0.5	0.43	0.49	***
Destination: France	0.76	0.43	0.43	0.5	0.53	0.5	***	0.83	0.37	0.52	0.5	0.61	0.49	***
Destination: Italy	0.11	0.31	0.32	0.47	0.26	0.44	**	0.073	0.26	0.31	0.46	0.24	0.43	***
Destination: Spain	0.13	0.34	0.25	0.44	0.22	0.41	***	0.092	0.29	0.17	0.38	0.15	0.36	***
Occupation: agriculture	0.04	0.20	0.13	0.34	0.11	0.32		0.014	0.12	0.056	0.23	0.046	0.21	***
Occupation: self-emp.	0.15	0.36	0.34	0.47	0.30	0.46	***	0.09	0.29	0.17	0.37	0.15	0.35	***
Occupation: service	0.61	0.49	0.16	0.36	0.24	0.43	***	0.48	0.5	0.17	0.37	0.24	0.43	***
Occupation: manual	0.12	0.33	0.33	0.47	0.30	0.46	***	0.19	0.39	0.49	0.5	0.42	0.49	***
Occupation: white-collar	0.08	0.27	0.04	0.20	0.05	0.21		0.22	0.42	0.12	0.33	0.15	0.35	**
Unemployed	0.027	0.16	0.085	0.28	0.068	0.25	**	0.02	0.14	0.032	0.18	0.029	0.17	
Employed	0.38	0.49	0.76	0.43	0.65	0.48	***	0.65	0.48	0.88	0.32	0.81	0.39	**
Inactive	0.59	0.49	0.15	0.36	0.28	0.45	***	0.33	0.47	0.083	0.28	0.16	0.37	**
Years in destination	1	0	1	0	1	0		10.2	8.98	9.34	7.77	9.61	8.17	
Arrival after 1990	0.8	0.4	0.7	0.46	0.73	0.44	***	0.54	0.5	0.51	0.5	0.52	0.5	***
Age at migration	28.7	7.72	28	7.13	28.2	7.31		27.2	7.96	26.8	6.56	26.9	7.02	***
Gender: male	0	0	1	0	0.71	0.45		0	0	1	0	0.7	0.46	
Years of education	10.1	5.47	9.74	6.22	9.85	6.01		8.78	6.2	9.56	6.24	9.33	6.24	***
Destination-specific education, years	-	-	-	-	-	-	-	0.89	1.93	0.73	1.9	0.78	1.91	***
Ethnicity: Wolof	0.35	0.48	0.58	0.49	0.51	0.5	**	0.28	0.45	0.52	0.5	0.45	0.5	***
Religion: Mouride	0.33	0.47	0.42	0.49	0.39	0.49	+	0.21	0.41	0.38	0.49	0.33	0.47	***
Economic status before trip	0.12	0.32	0.08	0.27	0.091	0.29		-	-	-	-	-	-	***
Number of contacts at dest.	2.56	2.00	1.69	2.00	1.94	2.04	***	4.21	2.57	2.94	2.68	3.32	2.71	***
Number of trips	1.35	0.72	1.70	1.18	1.60	1.08	**	1.23	0.58	1.63	1.26	1.51	1.12	***
Does not speak dest. Language	0.17	0.38	0.36	0.48	0.31	0.46		0.17	0.38	0.32	0.47	0.28	0.45	+

Variable	Year of Arrival							All person-years						
	Women		Men		Total			Women		Men		Total		
	mean	sd	mean	sd	mean	sd		mean	sd	mean	sd	mean	sd	
Spouse or kids at destination	0.64	0.48	0.099	0.3	0.26	0.44	***	0.85	0.36	0.34	0.47	0.49	0.5	***
Spouse or kids in Senegal	0.42	0.49	0.47	0.5	0.46	0.5	***	0.21	0.41	0.5	0.5	0.41	0.49	***
Geographic origin: Dakar	0.35	0.48	0.29	0.45	0.3	0.46	***	0.29	0.45	0.28	0.45	0.28	0.45	***
Father's ed.: less than secondary	0.6	0.49	0.69	0.46	0.66	0.47	**	0.58	0.49	0.72	0.45	0.68	0.47	***
Trip paid for by family	0.73	0.45	0.25	0.44	0.39	0.49	***	0.67	0.47	0.29	0.45	0.4	0.49	***
Definitive plans to stay	0.48	0.5	0.47	0.5	0.47	0.5	***	0.4	0.49	0.48	0.5	0.46	0.5	***
Trip motivation: work	0.24	0.43	0.65	0.48	0.53	0.5	***	0.27	0.44	0.68	0.47	0.56	0.5	***
One or more parents alive	0.93	0.26	0.89	0.31	0.9	0.3		0.84	0.36	0.78	0.42	0.8	0.4	***
Work experience in Senegal, years	5.02	8.25	10	9.27	8.58	9.27	***	-		-		-		
Work experience in dest., years	-		-		-			5.37	6.84	7.42	7.67	6.8	7.49	***
N	300		427		727			3315		4566		7881		

Source: MAFE-Senegal. Notes: Weighted statistics. t-test of significant differences: +  $p < 0.1$ , \*  $p < 0.05$ , \*\*  $p < 0.01$ , \*\*\*  $p < 0.001$ .

homemaking. Men never declared being a homemaker and were retired or otherwise inactive during 9% of person years. Twenty-three percent of inactive women were students during the year of arrival, but studying only made up 16% of all inactive person-years among women.

I created two additional variables based on economic activity variable: a variable capturing transitions into unemployment, if the categorical employment variable equaled “unemployed” at time  $t + 1$ ; and a variable capturing transitions into employment, if the categorical employment variable equaled “employed” at time  $t + 1$ . These indicators will serve as dependent variables in models for dynamic transitions into unemployment for men and into employment for women.

#### **4.4.3 Predictor variables**

##### *4.4.3.1 Legal status and context of reception*

The key predictors in each model are variables measuring legal status. I use the same typology of legal-status categories as presented in chapter 3 and briefly restated here. A dichotomous variable indicates if a migrant entered the destination country at the start of the current trip with or without a visa. Annual indicators of residence and work permits combine to form a categorical variable capturing both forms of authorization. This categorical variable takes the values of “NRP\_NWP” for migrants who lack both a residence permit and a work permit (“fully irregular status”), and “RP\_WP” for migrants who possess both a residence permit and a work permit (“fully regular status”). “RP\_NWP” indicates that migrants have a residence permit but lack a work permit (“mixed status”), a situation common among students and reunified family members in France, Italy, and Spain (Mezger and González-Ferrer 2013). While the combination of lacking a residence permit and possessing a work permit is theoretically possible and is declared in 4% of person years by Senegalese migrants, the immigration policies of the receiving countries have almost always made work permits conditional on possessing a permit to reside lawfully or possession of work permits have automatically made such residence lawful (see chapter 2), and migrants may have declared this status because of recall bias or incomplete understanding of their statuses. I have thus chosen to exclude person-years in which migrants declared “NRP\_WP” status from the analytic sample for this investigation.



Table 4.2 indicates that, during the first year in destination, Senegalese women are more likely to have fully regular status than men, while men are more likely to have fully irregular status; the proportions of women and men with mixed status during the first year are not statistically different. Approximately 17% of all person-years among both men and women display fully irregular status, with no significant gender difference. Women are significantly more likely to spend time in mixed status, accounting for 12% of their person-years compared to 9.3% of men's. Women spend a slightly higher proportion of person-years in fully regular status. The fully-regular category served as the reference category in regression models. Regarding visa status, there was no statistically significant difference in the proportion of men and women arriving without visa.

The other key predictor variable is the context of reception, as captured by indicators for country of residence. Table 4.2 shows that women tend to be concentrated in France during the year of arrival: 76% of Senegalese women migrants live in France, as compared to 11% in Italy and 13% in Spain. Only 43% of trips for men start in France, with 26% starting in Italy and 22% starting in Spain. A similar pattern for women holds across all person years: they are overwhelmingly concentrated in France (83% of person-years). Men also tend to spend more time overall in France across all person-years (52%), while they spend 31% of person-years in Italy and 17% in Spain.

#### *4.4.3.2 Location of spouse/partner*

A dichotomous variable indicates whether or not the migrant has a spouse and/or children living in the same destination. According to Table 4.2, 64% of Senegalese women declared having a spouse and/or a child in the same destination at the year of arrival, while only 10% of men declared the same. A similar variable indicates whether or not the migrant has a spouse and/or children residing in Senegal: 42% of women and 47% of men declared having these family members at origin. An additional dichotomous variable indicates whether or not the migrant has at least one parent still alive in Senegal. All of the family variables are time-varying (Obucina 2013).

#### *4.4.3.3 Human, social, and migration-specific capital*

Variables indicating human capital during the year of arrival include years of education, ability to speak the language of the destination country (does not speak vs. speaks well or gets by), age at the time of the start of the trip, and years of work experience in Senegal prior to migration. Time-varying human-capital indicators include the number of years spent in the destination, the cumulative years of education acquired in the destination, and the cumulative years of work experience acquired in the destination; language ability can also vary over time. A variable measuring the number of family members and other close members of the migrant's personal network that live in the same destination country captures social capital, and can vary over time. The number of trips a migrant has made indicates migration-specific capital. Other variables capture migrants' motivations, which could be considered a kind of cognitive capital: a dichotomous variable indicates whether or not work was the main motivation for migration, and another dichotomous variable indicates whether or not the migrant plans to stay definitively in the current destination.

#### *4.4.3.4 Context of exit*

Variables indicating the migrant's social and cultural context of exit include ethnicity (Wolof vs. other), religion (Mouride vs. other), and geographic origin (Dakar vs. other). Variables indicating the migrant's economic context of exit include self-reported economic status prior to migration (more than sufficient for daily needs and better than others in the same place vs. other), father's educational level (less than secondary school vs. secondary school or more, which is proxy for social class), and financial participation of family members in the financing of the current trip (yes vs. no).

#### **4.4.4 Models**

I estimate separate models for men and women for the outcomes of economic activity status and transitions to and from employment. Due to sample-size restrictions, separate models by gender for the occupational status outcome are not estimable; this model will thus include interactions between the gender and other key predictors.

#### 4.4.4.1 First-year economic activity

I estimate multinomial logistic regression models predicting economic activity status during the first year of residence in France, Italy, or Spain as specified by the following equation:

$$\ln\left(\frac{\Pr(\text{Activity}_{it1}=i)}{\Pr(\text{Activity}_{t1}=\text{Unemployed})}\right) = \alpha + \mathbf{X}_1\boldsymbol{\beta}_1 + \mathbf{X}_2\boldsymbol{\beta}_2 + (\mathbf{X}_1 \times \mathbf{X}_2)\boldsymbol{\beta}_3 + \mathbf{X}_4\boldsymbol{\beta}_4 + \mathbf{X}_5\boldsymbol{\beta}_5 + \mathbf{X}_6\boldsymbol{\beta}_6 \quad (1)$$

where  $i$  indexes activity states unemployed, employed, and inactive at time  $t = 1$ .  $\mathbf{X}_1$  is a vector of indicators of legal status (visa and residence/work authorization),  $\mathbf{X}_2$  is a vector of indicators of country of residence, and  $\mathbf{X}_1 \times \mathbf{X}_2$  represents the interaction between legal status and country of residence.  $\mathbf{X}_4$  is a vector of variables indicating human, social, and migration-specific capital.  $\mathbf{X}_5$  is a vector of variables indicating family links, and  $\mathbf{X}_6$  is a vector of variables capturing the migrant's context of exit. All variables in this model are measured at time  $t = 1$ , the year in which the migrant arrives at the destination. I estimate separate models for men and women.

#### 4.4.4.2 Transitions into and out of employment

I use discrete-time survival models to estimate the risk of transitions either into or out of employment. I select men for studying the first transition out of employment and estimate the following model:

$$\ln\left(\frac{\Pr(\text{Unemployed}_{t+1})}{1 - \Pr(\text{Unemployed}_{t+1})}\right) = \alpha + \mathbf{X}_{1t}\boldsymbol{\beta}_1 + \mathbf{X}_{2t}\boldsymbol{\beta}_2 + (\mathbf{X}_{1t} \times \mathbf{X}_{2t})\boldsymbol{\beta}_3 + \mathbf{X}_{4t}\boldsymbol{\beta}_4 + \mathbf{X}_{5t}\boldsymbol{\beta}_5 + \mathbf{X}_{6t}\boldsymbol{\beta}_6 + \mathbf{X}_{7t}\boldsymbol{\beta}_7 \quad (2)$$

where the outcome variable is a dichotomous indicator of unemployment at time  $t + 1$ . All of the predictor vectors are as in the first model, except that some can vary over time; these are thus measured at time  $t$ .  $\mathbf{X}_4$  additionally includes the number of years spent at the destination, the cumulative time spent in employment or in formal studies at the destination, the prestige score of the migrant's current job, and a dichotomous variable indicating the activity status of the migrant in year  $t$  (inactive vs. employed).  $\mathbf{X}_7$  is a vector of time-counting variables indicating the duration at risk for falling into unemployment (number of years) and the number of activity spells. Only men who are employed or inactive are subject to the risk of falling into unemployment, and exit the risk set either through censoring or becoming unemployed.

I select women for studying the first transition into employment and estimate the following model:

$$\ln\left(\frac{\Pr(\text{Employed}_{t+1})}{1-\Pr(\text{Employed}_{t+1})}\right) = \alpha + X_{1t}\beta_1 + X_{2t}\beta_2 + (X_{1t} \times X_{2t})\beta_3 + X_{4t}\beta_4 + X_{5t}\beta_5 + X_{6t}\beta_6 \quad (3)$$

where the outcome variable is a dichotomous indicator of employment at time  $t + 1$ . The predictors are identical to those in model 2, with the exception of the employment-related variables, which are unmeasured for women because this model examines the risk of first entry into employment; the model for women does, however, include a variable indicating cumulative work experience in Senegal. Only women who are inactive or unemployed are subject to the risk of becoming employed, and exit the risk set either through censoring or becoming employed.

## 4.5 Results

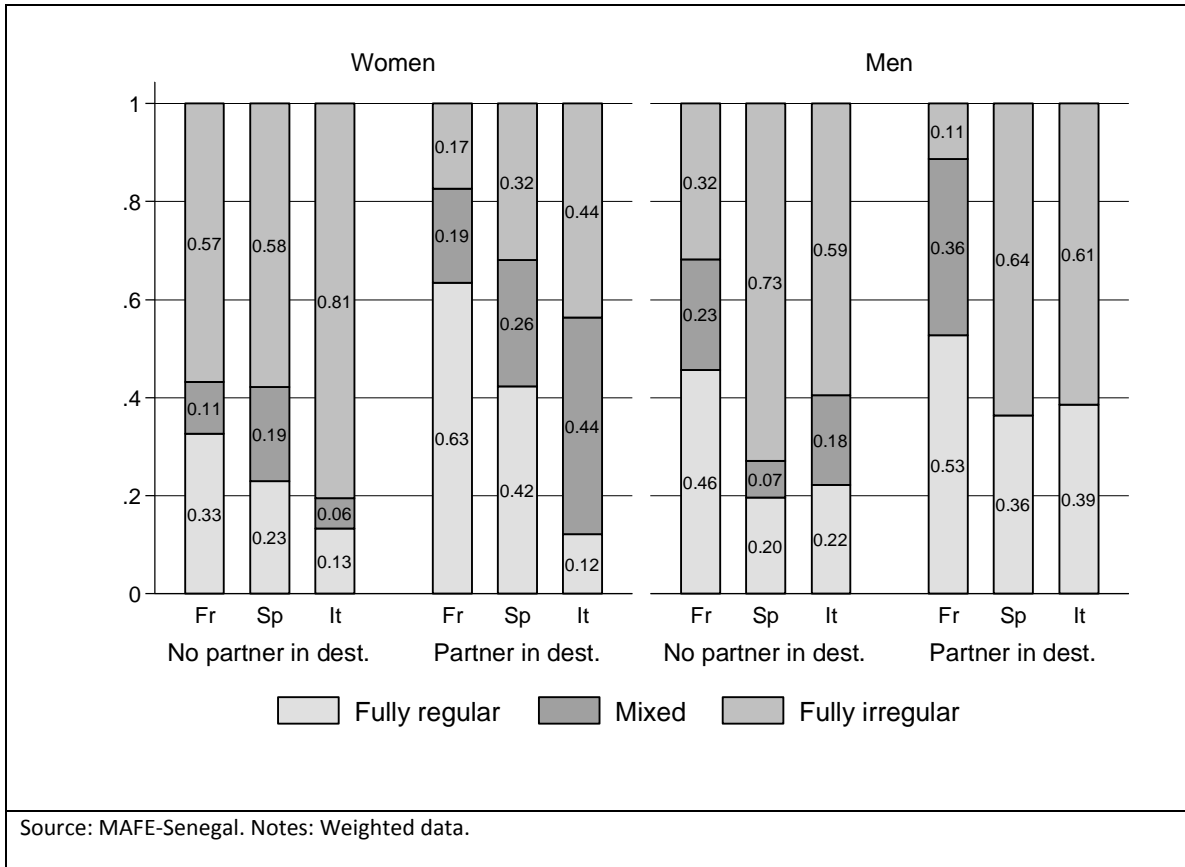
### 4.5.1 Gender, partner location, and legal status

The MAFE data show a clear connection between partner location and the varying legal status configurations countries as outlined in Table 4.1 that are indicative of family reunification for women in different. Figure 4.1 shows the legal status of Senegalese men and women during the year of their arrival in Europe, by their destination and the location of their partners. Women who rejoin a partner in France are overwhelmingly likely to have fully regular legal status during their year of arrival: 63% of women with a partner in France possess this status, compared to only 33% of women in France without a partner in that location. Senegalese women with fully regular status in France and a spouse in that destination are thus likely to have accessed this status through legal channels of family reunification as France's immigration policies allow both residence and work authorizations for reunified spouses.

In contrast, Senegalese women going to Spain or Italy to rejoin a partner are likely not to have fully regular status, and results are indicative of the operation of both legal and irregular channels of reunification. Mixed status—possessing a residence permit but lacking a work permit—is the most common for Senegalese women with a partner in Italy, indicative of family reunification in a legal context that imposes a waiting period. Irregular status is also common among women joining a partner in Italy, which suggests the operation of an irregular-reunification pathway. In Spain, more than half of Senegalese women rejoining a partner report having either mixed or fully irregular status upon arrival, indicating the prevalence of both the legal channel of family reunification that imposes a work-authorization waiting

period (giving rise to mixed status) and an irregular pathway of reunification. The figure suggests that the distribution of legal statuses during the year of arrival among Senegalese men conditional on partner location does not vary as much as for women.

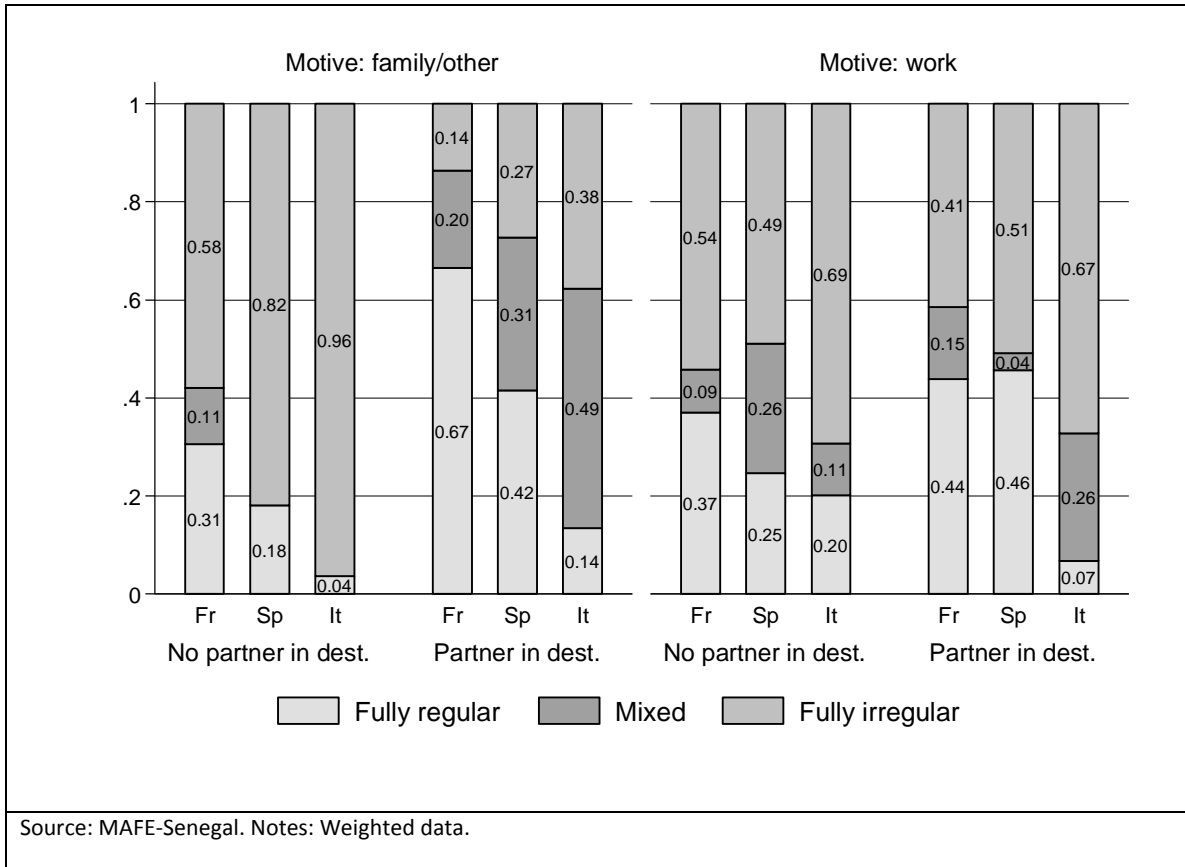
Figure 4.1: Legal status at arrival by gender, destination, and location of spouse



Examination of women’s motivations for migration along with the location of their partner and elucidates the link between family-reunification policies and women’s first-year legal status. Figure 4.2 shows that women who migrate for family reasons and join a partner at destination are likely to have the configurations of legal status indicative of family reunification (fully regular status in France and mixed status in Italy and, to a slightly lesser extent, Spain). In contrast, women with a partner at their destination who migrate for work reasons are far more likely to have fully irregular status in all destinations, indicating a willingness to circumvent legal channels of family reunification that may inhibit their ability to work

upon arrival. These descriptive findings are suggestive of the link between women’s legal status during the year of arrival and the gendered channel of family reunification.

Figure 4.2: Legal status among Senegalese women during year of arrival, by destination, partner location, and migration motivation



#### 4.5.2 First-year economic activity

Legal status was hypothesized to have different effects for Senegalese men’s and women’s economic status during the year of arrival at destination. Descriptive statistics largely support this view, with much greater variation in economic activity across women’s legal statuses than men’s.

The descriptive statistics in Table 4.2 demonstrate differences in Senegalese men’s and women’s labor-force participation during their year of arrival at destination: women are more likely to be inactive, and, among those in the labor force, men are more likely to be unemployed. Figure 4.3 and Figure 4.4 show additional variation in labor-force participation and employment among both men and women by their legal

status upon arrival and their destination country. The first figure shows that Senegalese men in France across all legal statuses tend to be inactive more frequently than Senegalese men in Italy or Spain, reflecting the fact that there is a significant flow of Senegalese students to France given the colonial and linguistic links between the two countries. Male migrants also tend to have a higher rate of inactivity in Spain and Italy when they have a mixed status upon arrival. A very small proportion of Senegalese men with fully regular status are inactive in Italy or Spain. Unemployment rates among men are quite low across countries and legal statuses. Having fully irregular legal status is positively associated with unemployment in Italy during the year of arrival, while a higher risk of unemployment is associated with having a mixed status in Spain.

Figure 4.3: First-year activity status by legal status and country of residence, Senegalese men

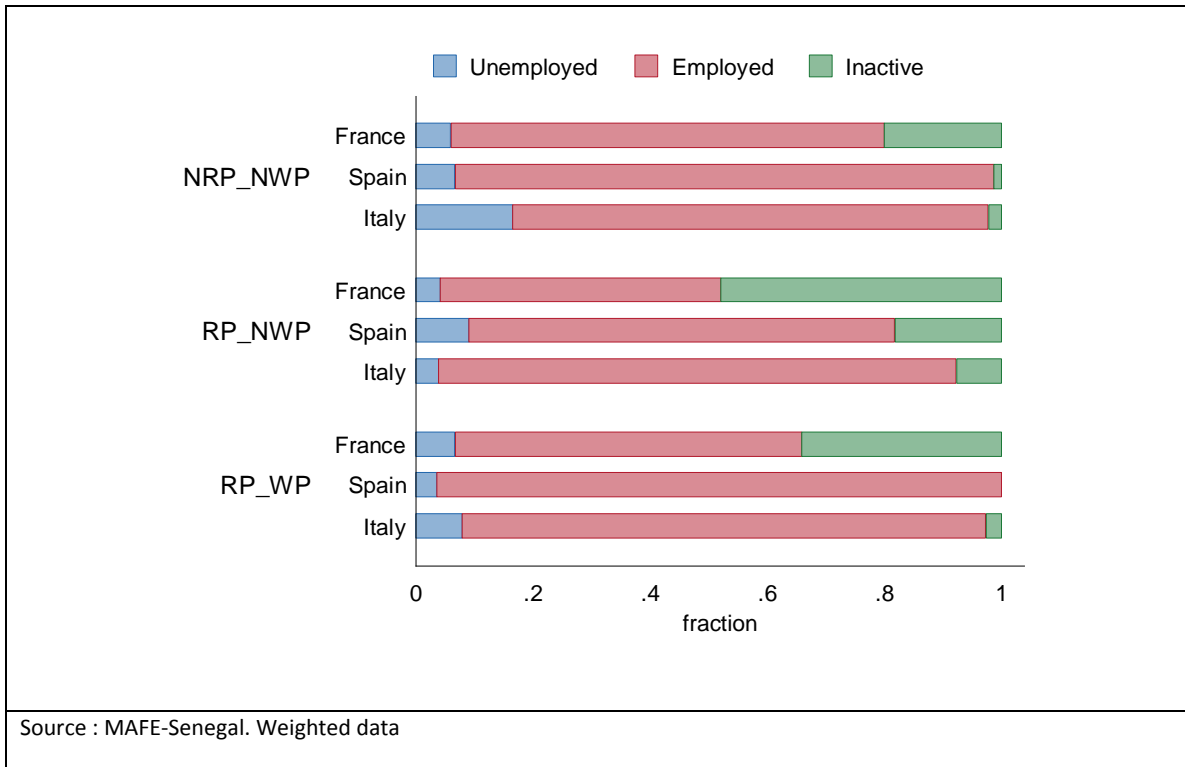
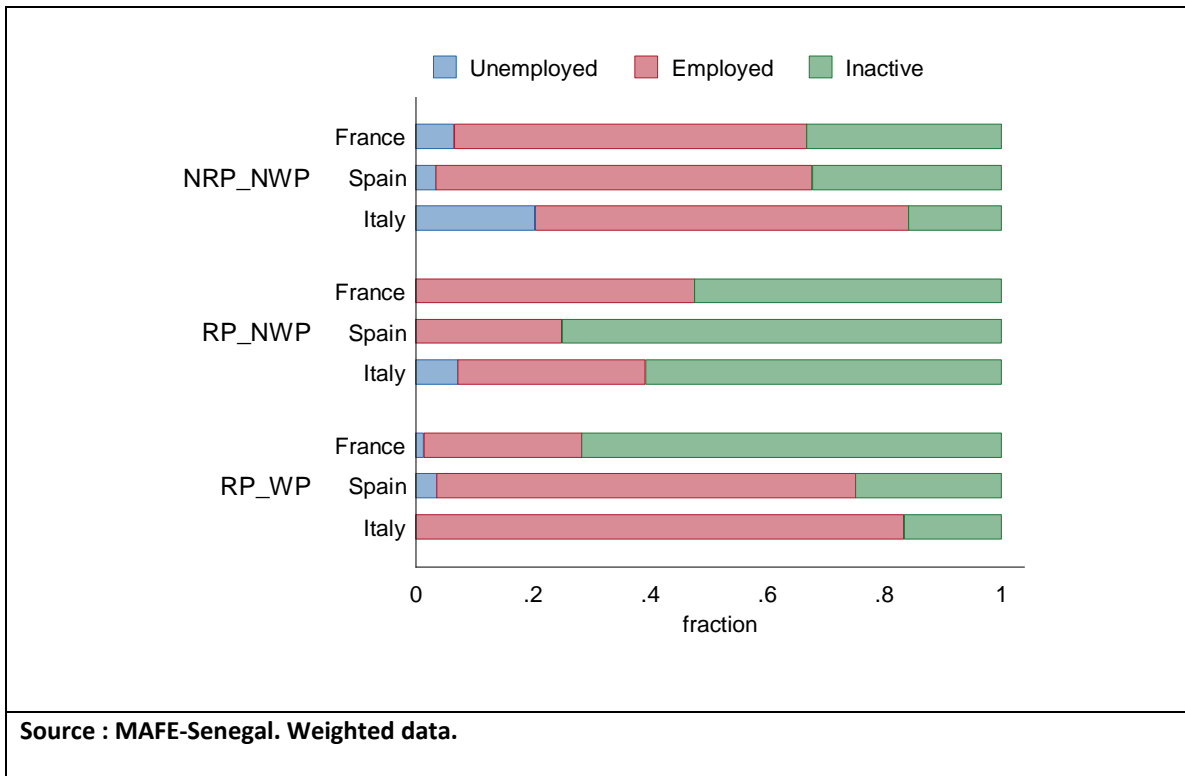


Figure 4.4 shows a different pattern for women: rates of labor-force participation and employment vary strongly by country of residence and legal status. Senegalese women with mixed status (RP\_NWP) have the highest rates of inactivity, and these rates are higher in Spain and Italy than in France. Among Senegalese women in France, those with fully irregular status have the lowest rate of inactivity, while those

with fully regular status have the highest rates of inactivity. The pattern for Italy and Spain is reversed: female migrants with fully irregular or fully regular statuses have the lowest rates of inactivity. As with male Senegalese migrants, having fully irregular status in Italy during the year of arrival seems to increase the risk of unemployment for those women in the labor market, especially compared to female migrants with fully regular status in Italy, who experience little unemployment during the year of arrival. Female migrants in Spain and France seem to face low levels of unemployment across legal statuses.

Figure 4.4: First-year activity status by legal status and country of residence, Senegalese women



Results from the multinomial regression models for men and women also suggest that the effect of legal status on first-year economic activity is gendered. Table 4.3 displays results from the separate multinomial logistic regressions of first-year activity status for Senegalese men and women. For Senegalese men, having mixed legal status (RP\_NWP) is positively associated with being inactive: compared to male migrants with fully regular status, male migrants who lack only a work permit are six percentage points



more likely to be inactive. Conversely, legal status does not have a statistically significant association with probabilities of working or being unemployed during the year of arrival for men.

While the effect of legal status on men's first-year activity is limited, legal status is more consistently associated with first-year activity for Senegalese women. Having mixed (RP\_NWP) status is positively associated with being inactive compared to having fully regular status (RP\_WP), although only at  $p < .1$ , and this effect is offset by a negative association between mixed status and the probability of employment. Women with fully irregular (NWP\_NRP) status face a higher risk of unemployment compared to women with fully regular status (RP\_WP): lacking both residence and work authorization is associated with a five-percentage-point increase in the probability of being unemployed compared to being inactive or employed. Entering the country without a visa has no effect on any of the outcomes for either men or women.

The effect of legal status thus varies by gender. Lacking only a work permit increases the probability of being inactive for both men and women, indicating the role of student migration for men and family reunification for women. Other predictors in this model lend credence to this interpretation. Years of education is significantly positively related to inactivity and negatively related to employment for men, while years of work experience in Senegal is associated with increased employment and decreased inactivity. Acquired human capital thus has opposite effects: those male Senegalese migrants that are more highly educated tend to be economically inactive students during their year of arrival, while those with acquired employment experience tend to be economically active and working.

Other predictors in the model are also suggestive of distinctive profiles of labor-market participation in keeping with family reunification for women. Among women, those who indicated work as the primary motivation for their migration are 17 percentage points less likely to be inactive than those women who indicated family as the primary motivation. In addition, women who intend to stay definitively at the

Table 4.3: Multinomial logistic regression of first-year activity status by gender, average marginal effects

<i>Predictor</i>	<i>Men</i>						<i>Women</i>					
	<i>Unemployed</i>		<i>Employed</i>		<i>Inactive</i>		<i>Unemployed</i>		<i>Employed</i>		<i>Inactive</i>	
	AME	se	AME	se	AME	se	AME	se	AME	se	AME	se
Legal status: (ref: fully regular)												
Fully irregular (NRP_NWP)	0.026	0.030	-0.042	0.040	0.016	0.029	0.047*	0.023	-0.049	0.065	0.0020	0.062
Mixed (RP_NWP)	-0.0042	0.039	-0.056	0.046	0.060*	0.029	-0.0086	0.019	-0.13+	0.071	0.13+	0.069
Destination (ref.: France)												
Spain	-0.0039	0.035	0.17**	0.059	-0.17**	0.056	-0.037	0.043	0.20*	0.081	-0.16*	0.081
Italy	0.045	0.039	0.13*	0.056	-0.17***	0.044	0.011	0.049	0.25**	0.088	-0.26**	0.085
Entry status: no visa	0.014	0.031	-0.015	0.039	0.00086	0.026	0.022	0.066	-0.0064	0.063	-0.016	0.067
Period of arrival: post-1990	0.0039	0.036	0.017	0.044	-0.020	0.028	0.0015	0.059	0.0030	0.078	-0.0045	0.068
Age at start of current trip	0.00030	0.0031	-0.0019	0.0039	0.0016	0.003	-0.0013	0.003	0.0023	0.0039	-0.00099	0.0034
Years of education	0.00028	0.0025	-0.01***	0.0037	0.013***	0.003	0.0028	0.004	-0.0049	0.006	0.0021	0.005
Ethnicity: Wolof	-0.050+	0.028	0.055	0.035	-0.0050	0.020	-0.032	0.037	0.00060	0.056	0.032	0.050
Religion: Mouride	-0.032	0.028	0.046	0.036	-0.015	0.023	-0.021	0.036	0.043	0.062	-0.022	0.056
Number of contacts at destination	0.0023	0.0061	-0.0048	0.0079	0.0025	0.0056	-0.012*	0.0060	0.0048	0.013	0.0070	0.013
Number of trips	-0.0039	0.011	0.017	0.016	-0.013	0.014	-0.085*	0.042	0.0098	0.049	0.075+	0.041
Does not speak lang. of destination	0.017	0.033	-0.018	0.054	0.0011	0.050	0.044	0.029	-0.13*	0.067	0.090	0.066
Self-reported econ. status: good	0.0018	0.053	-0.035	0.060	0.033	0.032	-0.050**	0.018	0.17*	0.084	-0.12	0.083
Spouse or kid at dest.	-0.062**	0.024	0.15***	0.034	-0.08***	0.025	0.013	0.024	-0.074	0.065	0.061	0.062
Spouse or kid in Sn	0.026	0.027	-0.027	0.038	0.00077	0.028	0.012	0.027	0.15**	0.058	-0.16**	0.055
Geographic origin: from Dakar	-0.0006	0.030	-0.045	0.034	0.045*	0.021	0.076**	0.029	-0.057	0.049	-0.019	0.047
Father's ed.: < secondary school	-0.0023	0.030	0.013	0.037	-0.011	0.022	-0.041	0.033	0.067	0.052	-0.026	0.046
Trip paid by family	0.041	0.035	0.024	0.038	-0.07***	0.018	-0.0053	0.023	-0.12*	0.058	0.13*	0.054
Plan to stay: definitive	-0.012	0.027	0.0033	0.033	0.0087	0.021	0.056*	0.026	-0.17***	0.050	0.12*	0.047
At least one parent alive in Senegal	0.076***	0.023	-0.056	0.062	-0.020	0.058	0.060***	0.013	-0.14*	0.071	0.081	0.071
Employed before trip	-0.072	0.062	0.061	0.071	0.011	0.046	-0.14+	0.072	0.066	0.12	0.071	0.098
Inactive before trip	-0.12	0.070	-0.095	0.093	0.21**	0.075	-0.13+	0.080	-0.27*	0.13	0.40***	0.11
Years of work exp. (Sn)	-0.0019	0.0018	0.0044*	0.0023	-0.003+	0.0015	0.0042	0.0028	-0.0035	0.0044	-0.00073	0.0039
N	454						309					

<i>Predictor</i>	<i>Men</i>						<i>Women</i>						
	<i>Unemployed</i>		<i>Employed</i>		<i>Inactive</i>		<i>Unemployed</i>		<i>Employed</i>		<i>Inactive</i>		
	AME	se	AME	se	AME	se	AME	se	AME	se	AME	se	
Log likelihood													
Pseudo R <sup>2</sup>													

Source: MAFE-Senegal. Notes: + p<0.10, \* p<0.05, \*\* p<0.01, \*\*\* p<0.001. Models include interaction between legal status and destination.

destination and those whose families contributed financially to the trip<sup>14</sup> are more likely to be inactive and less likely to be working. These associations between motivations, intentions, family financial participation and the likelihood of inactivity are indicative of family reunification. Interestingly, having a spouse and/or children at the destination had no direct effect on women's first-year economic activity net of legal status and other predictors, suggesting that direct measures of women's legal status and motivations are more important predictors of economic participation.

Other predictors were indicative of autonomous-migration profiles. Those women with a spouse or children in Senegal are less likely to be inactive and more likely to be working, indicating that they are probably independent pioneer migrants who migrated, in part, to support family in Senegal through working in Europe; for men, having a spouse or child in the same destination is positively predictive of employment and negatively predictive of both inactivity and unemployment. While legal status and other predictors define distinctive profiles for inactive migrants among both men and women, legal status is not related to employment for active men. It does seem, however, to structure women's employment chances: female migrants with fully irregular status are more likely to be unemployed.

The effects of legal statuses vary across destinations, but more so for women than for men. Table 4.3 also shows significant variation in the probabilities of first-year activity status between contexts of reception. For both men and women, compared to their compatriots in France, Senegalese in Italy and Spain are less likely to be inactive and more likely to be employed during their first year of residence. Country of residence does not have a significant relationship with unemployment for either men or women. Given the variation in first-year activity status by both legal status and country of residence, the model includes an interaction between these predictors that can help us examine how the effect of legal status might vary by country of residence. Table 4.4 displays the average marginal effects of legal status by country of residence

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<sup>14</sup> Previous empirical research with the MAFE data has shown that husbands overwhelmingly participate in the decision-making for their wives' migration (Toma 2012). Family financial contributions to women's migration also come mostly from husbands: 74% of Senegalese women who reported such financial contributions received them from their partners.

for both men and women. The top panel of the table shows that this interaction does not produce statistically significant variation in the effects of legal status for men.

Table 4.4: Average marginal effects of legal status on first-year activity status, by country of residence and gender

<i>Gender/ country</i>	<i>Outcome</i>											
	<i>Unemployed</i>				<i>Employed</i>				<i>Inactive</i>			
	<i>Irregular status</i>		<i>Mixed status</i>		<i>Irregular status</i>		<i>Mixed status</i>		<i>Irregular status</i>		<i>Mixed status</i>	
	AME	se	AME	se	AME	se	AME	se	AME	se	AME	se
<b>Men</b>												
France	-0.03	0.04	-0.02	0.05	0.017	0.07	-0.034	0.07	0.01	0.07	0.049	0.05
Spain	0.041	0.04	0.077	0.11	-0.061	0.05	-0.14	0.13	0.02	0.02	0.065	0.09
Italy	0.083	0.06	-0.05	0.06	-0.098	0.07	-0.020	0.07	0.02	0.03	0.071	0.04
<b>Women</b>												
France	0.025	0.04	0.018	0.02	0.22*	0.10	0.2***	0.07	-0.2*	0.10	-0.2**	0.07
Spain	-0.02	0.05	-0.05	0.04	-0.090	0.12	-0.30+	0.16	0.11	0.11	0.34*	0.15
Italy	0.2**	0.05	0.058	0.05	-0.4***	0.09	-0.4***	0.11	0.2*	0.09	0.4***	0.10

Source: MAFE-Senegal. Notes: + p<0.10, \* p<0.05, \*\* p<0.01, \*\*\* p<0.001.

For Senegalese women, on the other hand, variation in the effect of legal statuses on first-year economic activity across destinations is consistent with different configurations of legal status for reunified migrants in different countries. The bottom panel of Table 4.4 shows, that the effects of legal status do vary by destination for women. For women in France, not having fully regular legal status is associated with a decrease in the probability of being inactive: women with mixed (RP\_NWP) status are 21 percentage points less likely to be inactive than women with fully regular status, and women with fully irregular status are 24 percentage points less likely to be inactive than women with fully regular status. These lower inactivity rates for women without fully regular status in France are offset by a relative increase in the probability of employment: women with mixed or fully irregular status have employment probability roughly 22 percentage points higher than fully regular women in France, while legal status has no effect on unemployment for women in France. These findings are indicative of their migration via the legal reunification channel, which confers fully regular legal status. The lower activity rate of these likely reunifiers supports previous findings that reunified women are less likely to participate in the labor force because of administrative and economic dependency.

The association between legal status and inactivity among Senegalese women in Italy and Spain is also consistent with legal channels of family reunification. Women with mixed legal status in Italy and Spain are more likely to be inactive than women in those countries with fully regular status. These higher inactivity rates translate into a negative effect of mixed legal status on employment in both of these countries. As in the case of France, these results are consistent with the channel of family-reunification in these countries. Italy and Spain differ from France in the specific configuration of legal status associated with the family reunification channel: they both impose a waiting period on the reunified spouses' applications for a work permit. The lack of a work permit among otherwise legal migrants is a sign of reunification and limited rights of formal participation, which result in lower participation in the labor force for reunified Senegalese women in southern Europe.

Senegalese women with legal statuses upon arrival that are indicative of non-reunification pathways are more likely to attempt to work. Mixed or irregular statuses are associated with employment among Senegalese women in France, indicating that students (who generally lack a work permit) and migrants with irregular status are more likely to work than reunified spouses, and this in spite of their lack of formal authorization to do so. In contrast, having fully regular status is predictive of employment in both Italy and Spain; unlike in France, where this status is associated with family reunification, this association suggests that Senegalese women might be able to access formal channels of labor recruitment, perhaps through quotas for domestic workers.

These results show a fairly simple pattern: Senegalese women who have legal statuses consistent with family reunification tend to have higher rates of inactivity than Senegalese women with other legal statuses. The specific configuration of legal statuses associated with reunification varies across destinations, though, giving rise to different associations between particular statuses and the probability of inactivity in different countries. These results also strongly suggest the heterogeneity of Senegalese women's legal statuses and a systematic association between non-reunification statuses—even those that do not include formal residence and/or work authorization—and the propensity to be employed upon arrival. In contrast, the labor-force participation and employment of Senegalese men is not as sensitive to variation across legal statuses or

destinations, indicative of a near-universal motivation to work (with the possible exception of male students in France).

#### **4.5.3 *Transitions out of employment for men***

The dynamic model of transitions into unemployment for Senegalese men shows that lack of fully regular legal status does not increase the likelihood of losing a job, nor does possessing fully regular status increase the likelihood of keeping a job.

Table 4.5 presents results for the discrete-time survival analysis of transitions into unemployment for men. These results show that mixed or fully irregular legal status is not associated with a statistically significantly different risk of falling into unemployment compared to fully regular status, nor is having entered without a visa predictive of this transition. Senegalese men in Spain face a 2.3 percentage-point higher risk of falling into unemployment than Senegalese men in France. Interactions between legal status and country of residence do not show any significant effects. Formal, legal barriers to transitions out of employment thus seem to be limited for Senegalese men.

Indeed, few predictors in this model have a significant association with the risk of falling into unemployment, which is due in part to the rarity of the transition: only 8% of subjects eventually fail, and the survivor function after seven years—the median duration at risk for unemployment—is 95%. The risk of transitioning to unemployment is marginally higher for more recent arrivals, perhaps suggesting secular declines in labor-market conditions. The risk of unemployment also increases with the number of activity spells and the prestige score of jobs, indicating that frequent change of jobs and having a “better” job increase the likelihood of becoming unemployed. This pattern may indicate that Senegalese men may indeed experience a tradeoff between employment and job quality: bad jobs are easier to get and to hold on to than good jobs, as is suggested by the literature (Fullin and Reyneri 2011). Conversely, male migrants whose families participated in financing their trip are less likely to become unemployed, indicating that such migrants may be more likely to keep jobs because, in part, they face pressure to “pay off” this investment through remittances (Chort, Gubert, and Senne 2012).

Table 4.5: Discrete-time survival analysis of transitions into and out of employment by gender, average marginal effects

<i>Predictor</i>	<i>Men</i>		<i>Women</i>	
	<i>Unemployment</i>		<i>Employment</i>	
	AME	se	AME	se
Legal status (ref.: fully regular)				
fully irregular (NRP_NWP)	-0.0039	0.0073	-0.043	0.044
mixed (RP_NWP)	-0.0085	0.0091	-0.10***	0.031
Destination (ref.: France)				
Spain	0.023*	0.0089	0.0097	0.053
Italy	0.011	0.0089	-0.072	0.047
Entry status: no visa	-0.00031	0.0037	0.093*	0.038
Years in dest.	-0.0079	0.0068	0.0050	0.0097
Duration at risk	0.00049	0.0027	0.0076	0.0095
Period of arrival: post-1990	0.0092+	0.0049	0.10***	0.027
Number of act. spells	0.022***	0.0036	0.064***	0.015
Age at start of current migration spell	-0.00060	0.00040	-0.0014	0.0018
Years of education	-0.00024	0.00056	0.0072**	0.0027
Ethnicity: Wolof	0.0033	0.0064	-0.034+	0.021
Religion: Mouride	-0.0078	0.0060	-0.026	0.042
Years of ed. in dest.	0.0070	0.0070	-0.0037	0.0073
Number of contacts at destination	-0.0019+	0.0011	0.0095*	0.0047
Number of trips	-0.00016	0.00100	0.043	0.027
Does not speak language of destination	-0.0068	0.0053	-0.0078	0.047
Work exp. at dest.	0.0086	0.0080	-	-
Unemployed	-	-		ref.
Employed		ref.	-	-
Inactive	-0.0031	0.0089	-0.093	0.067
Manual occupation	0.0030	0.0045	-	-
ISEI	0.00028*	0.00013	-	-
Spouse or kid at dest.	0.0019	0.0037	0.0063	0.036
Spouse or kid in Sn	-0.0047	0.0046	0.038	0.044
Geographic origin: from Dakar	-0.00082	0.0044	0.023	0.031
Father's ed.: < secondary school	-0.0044	0.0036	0.0096	0.027
Trip paid by family	-0.013**	0.0049	0.0012	0.028
Plan to stay: definitive	0.0035	0.0040	0.055+	0.029
Motive: work/better life	-0.0052	0.0038	0.045	0.034
Work exp. in Sn (years)	-	-	0.0055**	0.0017
Self-reported econ. status: good	-	-	-0.018	0.051
N (person-years)	4,010		819	
Events	36		90	
Log likelihood	-131.21		-231.49	
Pseudo R2	0.36		0.18	

Source: MAFE-Senegal. . Notes: + p<0.10, \* p<0.05, \*\* p<0.01, \*\*\* p<0.001. Models include interaction between legal status and destination.



#### **4.5.4 Transitions into employment for women**

Transitions to employment for women are suggestive of the eventual transformation of reunified spouses into labor migrants. The probability of a transition into employment among women is much higher than the transition examined for men: after the median duration of time at risk for becoming employed (four years), the survivor function is only 62%; the figure falls to 30% after ten years. The baseline risk for women is thus quite high, indicating that the majority eventually experience a transition into economic activity.

The dynamic model of women's transitions into employment indicates that secure legal status is a strong predictor of eventual work.

Table 4.5 presents average marginal effects for the discrete-time survival analysis of transitions into employment for women, and shows significant effects of legal status. Compared to fully regular status, mixed (RP\_NWP) status is associated with a ten-percentage-point decline in the risk of becoming employed, while there is no average statistically significant difference between fully irregular and fully regular status. Additional statistical tests indicate that the difference in AMEs between fully irregular and mixed statuses is significant at  $p < 0.10$ . While mixed status is associated with family reunification and thus inactivity during the year of arrival in Italy and Spain, most (95%<sup>15</sup>) women with mixed status eventually transition into fully regular status and thus gain access to the labor market. Reunified Senegalese women in France have this status from the start of their stay and thus face no legal barriers to eventual employment even if their economic and administrative dependence constrains their work initially. These results indicate that Senegalese women who possess or access fully regular status in the process of family reunification are likely to make an eventual transition to employment

Irregular entry status, on the other hand, is also significantly predictive of the risk of becoming employed: having entered without a visa is associated with an increase of 9.3 percentage points in the hazard of becoming employed. Thus, women who entered without a visa are likely to become employed. While seemingly at odds with the finding that current fully regular status is associated with employment, the

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<sup>15</sup> Tabulation available upon request.

relationship between irregular entry and eventual employment may be indicative of interlinked regularization and employment strategies: women who enter outside of legal channels may pursue regular status as part of an employment-focused trajectory.

Variation in the effects of legal statuses for women across destinations supports the interpretation that reunified wives are likely to make a transition into employment, especially in France. Table 4.6 displays the substantial variation in the effects of legal-status categories in different destinations. Having mixed status in France is associated with a lower risk of becoming employed than having fully regular status, as is having fully irregular status. Women with fully regular status in France—who are likely to have entered through the channel of legal reunification and were the most likely to be inactive during the year of arrival—are thus the most likely to undergo a transition to employment.

Table 4.6: Average marginal effects of legal status on risk of employment for women, by country of residence

<i>Destination</i>	<i>Legal-status variable</i>					
	<i>Irregular status</i>		<i>Mixed status</i>		<i>No visa</i>	
	AME	se	AME	se	AME	se
France	-0.099+	0.058	-0.12**	0.037	0.21**	0.071
Spain	-0.13	0.085	-0.15*	0.077	-0.058	0.048
Italy	0.20*	0.10	-0.015	0.052	0.060	0.042

Source: MAFE-Senegal. Notes: +  $p < 0.10$ , \*  $p < 0.05$ , \*\*  $p < 0.01$ , \*\*\*  $p < 0.001$

The results for the southern European destinations are more complicated. Mixed status is significantly negatively related to the transition to employment in Spain while there is no association in Italy. In contrast, there is no statistically significant effect of fully irregular status in Spain, while fully irregular status in Italy is associated with an increase in the risk of employment of 20 percentage points. Senegalese women in Spain with regular status are thus the most likely to make a transition to employment, and this group is likely to be composed of both reunified spouses who gained work authorization after arrival and labor migrants with regular status—the most likely to work upon arrival in Spain. The latter group is excluded from the model’s risk set if they are already employed, meaning that the women with regular status making transitions to employment are likely to be reunified wives.

Other results may be indicative of autonomous migration strategies. The positive association between fully irregular status and transitions to employment in Italy means that migrants with fully irregular status in the first year—who are the most likely to be both in the labor force and unemployed—tend both to stay in this status and to find work. The effect of entry status is concentrated in France, where Senegalese women who enter without a visa have an employment-transition probability 21 percentage points higher than women who entered with a visa; these results may indicate an autonomous strategy where irregular entry is associated with eventual transitions to regular status and employment.

These results confirm the importance of including both entry status and time-varying legal status in models of employment for women (González-Ferrer 2011a) and suggest that women who enter through family-reunification mechanisms, who often have a mixed legal status that precludes work, are less likely to become employed than women who may circumvent such mechanisms.

Other predictors in the model are suggestive of a positive selection of employed Senegalese women: years of education, number of contacts at destination, and work experience in Senegal are all positively associated with becoming employed, suggesting that human and social capital play a role in this transition. In addition, planning to stay definitively in the destination is positively associated with becoming employed, while there is no association with having family either at destination or in Senegal.

#### **4.6 Discussion**

This chapter's main hypothesis is that the effect of legal status on Senegalese migrants' economic integration—as measured by first-year economic activity and employment dynamics—would vary systematically by gender as a result of gendered family reunification policies that produce different constraints and opportunities for men and women. The results for Senegalese women are largely consistent with a gendered migration system constructed by both legal channels open to women in the main contexts of reception and the constraints on female autonomy and mobility present in the gender norms of a patriarchal Senegalese context of exit. Across all three destination countries, women with legal-status configurations indicative of family reunification were more likely to be economically inactive during the year of arrival: women with fully regular status in France were less likely to work than women with mixed

or irregular statuses, while women with mixed status in Italy or Spain were less likely to work than women with fully regular statuses. These findings indicate the operation of administrative dependency (Boyd 1997; Kofman 1999; Lesselier 2008) and a concomitant decrease in the ability of women to enter the labor market. This is especially true in Spain and Italy, where legally mandated waiting periods on access to work permits erect a formal barrier to reunified spouses' participation.

Other variables associated with family reunification were also strongly predictive of first-year inactivity among women, including plans to stay definitively in the destination country, family financial participation in the trip, and having family motivations for the trip. The financial participation of women's families is overwhelmingly provided by reunifying husbands, and the association between this variable and women's inactivity suggests that men who can demonstrate the legally required financial means to bring a spouse can prevent reunified wives from working both by removing the economic necessity of women's work and potentially by making women economically dependent. Reunification and its associated economic dependency is thus a way to reproduce gendered hierarchies in a context where women's migration, even for reunification purposes, is strongly discouraged because of the fear of the loss of social control (Beauchemin et al. 2013).

Family reunification is often associated with dependency for women and at least an initial exclusion from labor-market participation, but research has also shown that reunified women may eventually work either as part of a family investment strategy (Duleep and Sanders 1993) or because of camouflaging of economic motivations in an "associational" move (Kanaiaupuni 2000). The results from this chapter support the contention that family reunification is not necessarily exclusive of eventual work. A discrete-time survival model showed that some of the legal-status configurations that were indicative of family reunification and first-year inactivity also predicted transitions into employment for women. This was directly evident for France, where women with fully regular status were more likely to make the transition to work than women with mixed or irregular status. In Spain, women with mixed status were less likely than women with regular status to make the transition; while reunified women have mixed status in Spain upon arrival, they are also able to access work authorization after a waiting period and those who do so are likely to find work. In these two countries, Kofman's (1999) observation that family reunification is liable to transform into

another form of labor migration is accurate. These findings also make a strong case for taking a longitudinal approach to the study of the effects of admission category on labor-market integration of reunified migrants.

Despite the predominance of family reunification as a legal migration channel for Senegalese women, this chapter's results also point to the existence of autonomous migration among Senegalese women with largely economic motives for their mobility. Senegalese women in France with mixed or irregular status during the year of arrival were likely not to be joining a partner and have economic motivations and were thus more likely to be employed during the year of arrival than women with fully regular status. These legal-status configurations indicate the predominance of semi-regular (in the case of students) and irregular work strategies among autonomous Senegalese women in France. In contrast, Senegalese women with fully regular status in Italy and Spain were more likely to work during the year of arrival than women with other statuses, indicating that these women are able to access legal channels of labor migration.

In contrast to the labor trajectories of Senegalese women, Senegalese men's economic integration showed little association with different configurations of legal status. Mixed status (lacking a work permit) was associated with inactivity, which is indicative of flows of students to Europe, especially France. Contrary to hypotheses, irregular status was not predictive of employment during the year of arrival, and regular status was not associated with transitions into unemployment. Senegalese men in Italy and Spain did exhibit significantly higher probabilities of employment during the year of arrival, however, lending support to the hypothesis that cross-national variation in labor markets would be associated with economic integration. It thus seems that Senegalese men are able to access employment in southern Europe regardless of their legal status, perhaps due to the extent of demand for low-skilled labor in these countries' robust informal economies, while Senegalese students in France are the only male migrants that face legal barriers to their employment.

These findings for Senegalese men are in keeping with literature that shows that migrants in such countries do not face an "ethnic penalty" in the probability of employment, but may face challenges in occupational mobility (Fullin and Reyneri 2011). Research with the MAFE data are indicative of the relatively low

occupational attainment of Senegalese migrants in Europe (Obucina 2013), but additional research will be necessary to examine the link between legal status and occupational types. At the same time, Senegalese men in Spain face a higher risk of falling into unemployment than Senegalese men in France, indicating that employment, while perhaps easy to obtain, is somewhat precarious.

#### **4.7 Conclusion**

While the relationship between legal status and immigrant economic integration is a major concern of both policymakers and scholars, many studies of this link do not examine how the family context of migration influences both women's legal statuses and their participation in the labor market at destination. Legal status may matter more for women's economic integration because of the gendered immigration policies that produce them. While women migrants' experiences are growing more heterogeneous, many of them have entered destinations via the legal channel of family reunification. Their legal status is thus subject to their family situations.

Family-reunification legislation strongly structures entry channels for Senegalese women and produces legal statuses that either directly preclude their labor-market participation (as in Italy and Spain) or create other forms of economic and administrative dependency that may make them less likely to work even if they have the legal authorization to do so (as in France). Furthermore, motivations and preferences of reunified wives and their husbands also act to prevent women from working, thus acting through legal status to affect labor-market decisions of women.

This chapter found that Senegalese women with configurations of legal status indicative of family reunification were more likely than women with other legal statuses to be economically inactive upon arrival, while there is little association between Senegalese men's legal status and their participation. This finding held across destination countries despite the differing configurations of legal status granted to reunified spouses: while mixed status among women was associated with higher inactivity in Spain and Italy, so was fully regular status in France.

This is consonant with research that finds that reunified spouses tend to be less likely to be economically active (Kofman 1999). In the case of Spain and Italy these women face legal barriers to their participation

as a result of waiting periods (Kofman 2004). Women in France, however, do not face such barriers, meaning that their legal situation is also indicative of economic dependency (Lesselier 2008).

The results also show, however, that family reunification does not preclude labor-market participation, as many of the women with family-reunification profiles eventually transition into economic activity. This finding echoes the observation that family migration may transform into a form of labor migration (Kofman 1999). It also supports the view that women migrants have a diversity of motivations for their migration, and may often strategically participate in an “associational” move for economic reasons (Kanaiaupuni 2000).

In contrast to Senegalese women, male migrants with fully irregular status (NRP\_NWP) did not face any penalty in labor-market participation, employment, or the risk of transition to unemployment compared to migrants with fully regular status. The legal constraint of irregularity of legal status on economic activity for Senegalese migrants in Europe thus seems to be weak, supporting views that immigrants to countries with labor-market structures that favor low-skilled labor and informality reduce the immigrant “employment penalty” (Kogan 2006), perhaps at the risk of funneling them into “bad jobs” (Fullin and Reyneri 2011).

## **Chapter 5. Legal status, territorial confinement, and transnational activities of Senegalese migrants in France, Italy, and Spain**

### **5.1 Introduction**

Migrants have long maintained ongoing social, economic, and political connections with their homelands, but these transnational activities have garnered increased attention from scholars and policymakers in recent years. Academic research has shown that modern travel and communications technologies have created new kinds and quantities of transnational engagement, findings which have challenged the notions of the state control of borders and of unidirectional immigrant settlement and assimilation. At the same time, international development agencies and sending-country governments have begun to recognize the potential of migrants to be active participants in the development of their home communities. Such “co-development” strategies seek to leverage migrant cross-border activities, such as remittances, investment, and participation in hometown associations, as part of overall development strategies.

Such celebrations of immigrant transnationalism ignore the constraint that irregular legal status may place on cross-border engagement. While much research on transnationalism argues that these activities transgress and subvert the state’s ability to control cross-border flows, scholars have generally not been attentive to the sensitivity of different kinds of cross-border action to robust immigration-control apparatuses. Transnational activities that are mobile—such as visits to the homeland—may be more directly structured by legal-status constraints than non-mobile activities such as remitting. Furthermore, studies recognize occasional physical visits to the homeland to be an important component of the transnational social field, both as an important link between destination and origin in its own right and as a crucial way to maintain the affective links that sustain non-mobile activities such as remitting and investing. Yet most research does not consider the direct constraint on physical mobility faced by migrants without secure legal status or the effect that such reduction in mobility might have for non-mobile, long-distance activities. Nor do policy prescriptions for co-development, which actively promote migrant cross-border engagement, factor in the contradictory state policies that lead to the legal confinement and subsequent reduced transnational participation of migrants.



This chapter explores the link between legal status and transnational activities through the lenses of territorial confinement and blocked transnationalism. I hypothesize that irregular legal status results both in direct territorial confinement—an inability to visit the homeland—and in indirect caging of non-mobile transnational activities. This caging is hypothesized to result from the withering of affective ties associated with reduced physical co-presence with kin and other important individuals in the homeland from which migrants often draw their sense of status. The chapter also explores the constraint of irregular status on non-mobile transnational activities through structural exclusion.

Senegalese migrants in France, Italy, and Spain provide the empirical data on which these hypotheses are tested. Senegalese migrants are renowned in the qualitative literature for practicing “transnational livelihoods” predicated on circulation between the destination and the homeland and the accumulation of material wealth and social status in Senegal in preparation for an eventual return. At the same time, Senegalese migrants often lack secure legal status: those without “papers” are often “stuck” in the destination country and may thus face challenges in constructing a transnational existence. Thus the development potential of this group of migrants—lauded by the French and Spanish government and coveted by the Senegalese state—may be short circuited by lack of secure legal status.

The chapter is organized as follows. The next section reviews the literature on transnational activities and suggests that scholars of transnationalism have largely overlooked both the physical confinement resulting from irregular status and the indirect effect of this confinement on non-mobile activities. I then present some qualitative evidence on the transnational participation of Senegalese migrants. The XXX section describes the data and methods for the empirical analysis. I then present results, which confirm that irregular status is negatively associated with short visits to the homeland, resulting in a territorial confinement that is transmitted to the non-mobile activities of remitting and investing. Discussion of the findings follow and a final section concludes.

## 5.2 Literature Review

### 5.2.1 *Types of transnational activities*

Since the early 1990s, the concepts of migrant transnational activities—social, economic, cultural, and political actions that migrants living abroad carry out in their home country— and migrant transnationalism—the condition of being that accompanies such cross-border action—have ridden a theoretical and empirical rollercoaster in the social sciences. Researchers initially hailed the concepts as a novel lens for understanding the lived bifocal realities of migrants in advanced postindustrial economies, with advances in transportation and communications technologies making it possible for these migrants to live their lives simultaneously in destination and sending countries (Glick Schiller, Basch, and Blanc 1995; Portes, Guarnizo, and Landolt 1999). Subsequent research has sought to distinguish migrant from other types of transnationalism and also questioned the novelty, normativity, scope, and liberatory potential of the phenomenon (Foner 1997; Waldinger and Fitzgerald 2004). The current consensus is that, while transnational activities are neither novel nor practiced by all immigrants everywhere, the concept still serves as an important conceptual lens for understanding a distinct path of immigrant incorporation (Portes 2010): immigrants are no longer limited by the social, cultural, economic, and political opportunities offered to them by their new host societies but can draw on cross-border ties to conduct their lives transnationally.

With the recognition that transnational engagement is neither widespread nor normative has come an insistence on the heterogeneity of transnational practices. Migrants' activities linking receiving and sending areas can take on a variety of forms, and researchers have commonly arranged them according to the typology of economic, political, and sociocultural transnational activities (Portes et al. 1999; Itzigsohn and Saucedo 2002; Boccagni 2012b). Economic transnational activities include sending monetary and in-kind remittances, investments in property or businesses in the homeland, circular labor migration, and informal cross-border trading enterprises. Political transnational activities include distance voting, the exercise of dual citizenship, fundraising or other support in the destination for candidates in the homeland, and even running for and holding office in the homeland while residing abroad. Socio-cultural transnational activities can include visits or “systematic communication at a distance” with family members and friends in the

homeland, organization of homeland-oriented cultural activities abroad, and participation in civic, recreational, or solidarity initiatives. Some scholars also classify participating in hometown associations (HTAs) as a political activity given the influence they can have on local power dynamics in the hometown (Portes et al. 1999). Research has thus shown that a wide variety of kinds of activities make up the transnational social space.

### ***5.2.2 The role of the state in migrant transnational activities***

Following Portes et al.'s (1999) call to delimit the phenomenon of transnationalism empirically, the last decade has seen a flowering of studies of a myriad of kinds of transnational activities among a wide variety of groups (for a review, see Levitt and Jaworsky 2007). Research has also focused on the determinants of cross-border social action. Many studies have shown that individual characteristics such as age, education, occupation, and length of residence in the host community are associated with with a variety of transnational activities, and scholars have concluded that engaging in sustained interaction with the homeland is not a threat to migrants' successful integration in the destination society (Guarnizo, Portes, and Haller 2003; Guarnizo 2003; Itzigsohn and Saucedo 2002).

What has been missing from this literature, however, is an examination of how state immigration-control apparatuses and the legal statuses they produce (see chapter 2) may also structure transnational activities. Given the widespread acknowledgement of the preponderant role that legal status plays in the incorporation of migrants in the destination society (Portes and Rumbaut 2006; Massey 2007), it is surprising that scholars have paid so little attention to the impact that legal status may have on the transnational activities that have been shown to accompany such integration.

This oversight may be due, in part, to a tension in the transnational-studies literature regarding the conceptualization of the role of the state. Much of the early literature on migrant transnational activities focused on the subversive character of these activities vis-à-vis the national borders. Transnational activities explicitly take place across borders and seemingly despite state attempts at control, and some scholars found the very fact of subverting a border to be a sign of the weakness or even inability of the state to control flows of people, money, ideas, and values (Glick Schiller et al. 1995).

In this view, the state and its territorial border—and the national membership that this frontier implies—are unable to contain the globe-spanning networks that “transmigrants” construct via their incessant physical, social, and economic connections to the homeland. These connections, it is argued, are possible mainly because of technological advances in travel and communications that compress time and space: jumbo jets make formerly insurmountable distances between destination and origin easily traveled, and mobile phones and the internet allow migrants to be in daily touch with their families in the homeland (Vertovec 2003). While subsequent historical work has questioned the argument that cross-border engagement is a novel form of social action (Foner 1997), new technologies have made these activities easier and cheaper, and have thus had an impact on the quantity and kinds of cross-border engagement (Portes, Guarnizo, and Haller 2002).

Despite the assertion that technologically advanced migration transnational activities indicate a diminished ability of national borders to contain migrant transnational activities, there are reasons to be skeptical of pronouncements of the demise of the state. While technology and its democratization are certainly necessary conditions for current transnational flows (Portes et al. 1999), the same technology that facilitates the flows of people, money, and ideas in the current globalized world has also undoubtedly led to increased state immigration-control capacities. As Zolberg’s work demonstrates for the US, migration-control apparatuses have long kept pace with advances in technology: the American government introduced a system of “remote control” of immigration in the 19th century through its requirement of passports and visas and concomitant network of overseas consulates, and was successfully able to screen out potential immigrants that it deemed “undesirable” (Zolberg 1999). The role of technology is well documented in contemporary border control: the governments of the US and Europe have spent massive sums of money to increase surveillance along their southern borders (Massey, Durand, and Malone 2002; Carling 2007). Governments have also introduced biometric visas and identity documents and electronic document verification systems for immigrant workers. The technology that has created the conditions for transnational activities has thus also created the possibility of increased control of those flows.

Research has also shown, however, that the technological ability to control migration flows is a necessary but not sufficient condition for such control, as it must be coupled with political will to instill and enforce

such systems. Formal systems of immigration control are often compromised by special interests, allowing unauthorized flows to continue through “back doors” for reasons of political and economic expediency (Zolberg 1999; Freeman 1995). State immigration-control capacity is thus often variable, contested, and contingent on a variety of economic and political factors. The existence of transnational flows does not necessarily call into question the ability of the state to contain such flows.

Indeed, recent research has argued that the state needs to be “brought back in” to the study of transnational activities. Waldinger (2008) argues that international migrants have and will always participate in the kind of cross-border activities celebrated as transnational; what is missing in the analysis, he argues, is analysis of the ability of the state and its borders to bound both identificational and territorial belonging. States and their efforts to control borders can act to “cage” migrants, both through processes of settlement and territorial confinement. The identificational demands of modern nation-states encourage legally resident migrants with an initially transnational orientation to abandon it in favor of identification with the destination polity.

For those migrants not legally part of the national group, state efforts to control movement across borders effectively confine them to the territory of the destination country; this constraint on physical mobility entails the progressive withering of the social ties that nourish cross-border engagement (Waldinger 2008). Waldinger (2008) describes this process as “double capture” in which the destination state constrains the cross-border engagement of both documented and undocumented migrants. Thus, the state not only has an impact on transnational activities in ways that run counter to the subversive description of migrant transnationalism, but its efforts to police its borders and ensure social closure are of primary importance for the ability of migrants to engage in these activities. Indeed, scholars have begun calling for approaches to transnationalism that grapple with the political and legal constraints on mobility (Mountz et al. 2002; Boccagni 2012b).

### **5.2.3 *Homeland visits and territorial confinement of migrants with irregular status***

How does the legal reality of the state, its borders, and the concomitant legal statuses constrain the cross-border actions of migrants? The answer to that question depends, in part, on the action under consideration.

Some transnational activities may be more sensitive to legal reality than others, especially those that depend in some way on migrants having a secure legal status in the destination society. The most relevant example is travel between destination and origin. While this kind of travel is certainly much easier, cheaper, and quicker in the contemporary world than before, destination states are also more technologically capable of restricting movements across their borders. As Waldinger (2008) points out, migrants do not come and go as they please, but only engage in physical cross-border mobility to the extent that states allow it.

Legal status is clearly the key factor in allowing migrants to travel freely between destination and their home communities: those migrants who lack secure legal status are less likely to engage in this kind of circulation because they are not guaranteed re-entry and do not want to risk the cost and potential danger of an unauthorized entry (Massey et al. 2002). Empirical research bears out the relationship between legal status and circulation. Kaag (2008) finds that Senegalese migrants in Italy without “papers” describe themselves as being “stuck” because they do not want to expose themselves to the cost and risk of an additional irregular passage. Waldinger (2008) finds that homeland visits are the most common form of cross-border activity among his sample of Colombians, Cubans, Dominicans, and Salvadorans, but he also finds that secure legal status strongly predicts the probability of travel home. Immigration policies and politics are thus a crucial conditioning factor for this form of cross-border engagement: migrants who lack secure legal status experience a “territorial confinement” (Waldinger 2008) that constrains their movement across the national border. We would thus expect a *direct negative effect of irregular legal status on Senegalese migrants’ propensity to return home for short visits because of the political barrier to mobility inherent in irregular status.*

#### **5.2.4 Blocked transnationalism and structural exclusion**

While the constraint that legal reality places on physical circulation between destination and origin is unambiguous, the link between legal status and cross-border action is less clear for other transnational activities. Why would irregular legal status constrain remittances, investments, or participation in associations? The literature provides some answers in the form of blocked transnationalism and structural exclusion. Restrictive immigration-control policies are a negative feature of the context of reception that

can prevent transnational ties with the home country (Portes and Rumbaut 2006). This blocked transnationalism manifests itself in the structural exclusion of migrants with irregular status from various formal institutions in the destination society (Bloch 2008; Mazzucato 2008; Van Meeteren 2012).

Lack of legal status can, for example, prevent migrants from participating in the formal labor market, relegating them to informal, precarious, and low-paid jobs; this insecurity could make them less likely to have the means to participate in transnational activities. Lack of legal status could also constrain participation in various financial institutions: not having a bank account or not being able to access credit could reduce migrants' abilities to send remittances to and invest in assets in Senegal, for example.

Structural exclusion could thus be considered an indirect effect of irregular legal status: the direct constraint of insecure legal status is on migrants' ability to participate in formal institutions, which in turn limits migrants' transnational engagement; lacking data on this kind of participation, then, legal status can act as a proxy for this kind of structural exclusion. We would thus expect *a direct negative effect of irregular legal statuses on remitting, investing, and participating in HTAs because of blocked transnationalism and the structural exclusion it engenders.*

#### **5.2.5 Affective ties, homeland visits, and non-mobile transnational activities**

The negative effect of territorial confinement on circulation between destination and origin coupled with research that strongly demonstrate the importance of affective ties and physical co-presence for ongoing transnational engagement together suggest a negative indirect effect of irregular status on long-distance, non-mobile transnational activities functioning through the withering of social ties. The territorial confinement and structural exclusion hypotheses both posit a negative effect of irregular legal statuses on Senegalese migrants' cross-border activities: irregular status simultaneously constrains migrants' abilities to cross the destination state's borders and to participate in formal institutions that promote other forms of cross-border engagement. The constraint that the legal reality imposes thus depends on the kind of activity and whether that activity involves the physical crossing of a border. The literature suggests, however, that occasional physical border-crossing may be vitally related to the ability of migrants to maintain the social ties that underlie continued long-distance transnational activities. If lack of secure legal status constrains

visits to the homeland, this constraint could be transmitted to long-distance, non-mobile activities by the weakening of social ties.

What is it about visits home that might encourage other kinds of transnational engagement? Studies of transnationalism often assert that advances in communications technologies have rendered physical distance, and the need for physical co-presence, obsolete. Virtual co-presence, in this view, substitutes effectively for physical co-presence in nourishing the social links that motivate and sustain regular cross-border social engagement. While scholars of mobility have recognized the potential for communications technologies to compress space and time in novel ways, there is still some doubt as to the ability of virtual communication to replace physical face-to-face interactions (Boccagni 2012a).

Mobility research has found, for example, that interactions involving physical co-presence are necessary for developing extended relations of trust (Urry 2002). Indeed, even communications at a distance, while allowing some maintenance of social ties, actually increase the need to reinvigorate these relationships via occasional physical co-presence (Urry 2002; Boccagni 2012a). Physical visits to the homeland thus allow migrants to build and renew the trust and emotional identification that underlie long-distance social ties. In a more instrumental sense, they also allow migrants to gather first-hand information on the wellbeing of their families, the suitability of business opportunities and partners, and the overall socioeconomic conditions of their communities and could thus inform decisions to send money, invest in assets, and participate in collective development efforts.

The findings of studies of transnationalism literature suggest that cross-border activities are responsive to affective ties between migrants and their origin communities. Itzigsohn & Saucedo (2002) find that the maintenance of emotional and affective ties—what they call “linear transnationalism”—is an important predictor of sociocultural cross-border engagement. These affective connections are evident in other research on transnational activities. Landolt et al. (1999:312) argue that Salvadoran household-level transnational activities are motivated by “a deep sense of obligation” on the part of the immigrant. Guarnizo et al. (2003) find that the expectation that migrants return to their home communities is a strong predictor of transnational political engagement.



Sana's (2005) findings that remittances are motivated by status loss and discrimination at destination also indicate that migrants continue to see the home community as their valid reference group and draw their self-worth from home-community value systems. Ongoing social ties are also important for the maintenance of transnational engagement: Bloch's study of Zimbabweans in the UK shows that kinship ties and staying in touch with family in the origin community are important determinants of remitting. The common finding that married males have a high propensity for transnational activities (Itzigsohn and Saucedo 2002; Guarnizo et al. 2003) also reflects contexts of exit from which men migrate more often than women and in which migration may be a family survival strategy.

Affective ties to kin play a large role in structuring the transnational activities of Senegalese migrants. Riccio (2008) argues that the family is the mainstay of social organization for Senegalese both at home and abroad. Organized around communalism and a hierarchical structured solidarity, the family remains a durable social institution in Senegal (Beauchemin, Caarls, and Mazzucato 2013). Furthermore, emigration from Senegal is largely a family strategy, as migration is pursued by individual men with assistance from kin, and a desire to return home leads to a temporary socially expected duration of migration on the part of both the migrant and the family (Riccio 2008). The family is the main source of status for Senegalese migrants, and this connection precludes many migrants from pursuing family reunification at destination (Riccio 2008; Beauchemin et al. 2013). Kane (2011) argues that these kinds of affective ties are crucial to Senegalese transnationalism: Senegalese migrants living abroad engage in transnational activities as a way to seek status from their contributions to their family in the homeland, often in preparation for an eventual return.

Other studies of transnationalism state that physical circulation between destination and origin is important in facilitating other transnational activities in instrumental, rather than affective, ways. Qualitative work has shown the importance of mobility for transnational political participation: Smith (2006) recounts that Mexican members of the Ticuani Solidarity Committee of New York would travel to Ticuani to consult with authorities and contractors on committee-funded public works projects over the weekend and would be back in New York in time for work on Monday morning. Riccio (2001) describes a similar situation for Senegalese migrants, who engage in what he calls "transnational livelihoods" that involve frequent trips

back to Senegal to facilitate investments and other business dealings. Quantitative work often assumes the importance of cross-border travel but leaves it unanalyzed. Portes and associates (Portes et al. 2002; Portes and Zhou 2012) assert that transnational entrepreneurship is at least partially dependent on the ability to be physically present both “here” and “there,” but the actual practice of short visits to the homeland is not included as a predictor variable in models. Waldinger (2008) analyzes the regularity and recency of home-country travel, but does not directly examine its effect on other cross-border activities.

Occasional physical presence in the homeland is thus of clear importance for the maintenance of affective social ties and the instrumental gathering of information, which are themselves the crucial social infrastructure of transnational flows. The strand of transnational studies that celebrates the ability of new communications technologies to compress time and space in such a way as to allow ongoing cross-border activities thus excludes a potentially important determinant of such activities by minimizing the importance of physical travel between destination and the homeland. We would thus expect a *positive direct effect of short returns on non-mobile transnational activities, such as remitting, investing, and participating in HTAs.*

#### **5.2.6 Caging non-mobile transnational activities**

A relationship between short visits to the origin community and other transnational activities opens the door to an important indirect effect of irregular legal statuses on cross-border engagement that does not directly depend on the physical crossing of borders (henceforth referred to as “non-mobile transnational activities”). Waldinger (2008) argues that states effectively “cage” migrants with irregular legal status by constraining their movement across borders; this caging not only limits their physical movement but also, by limiting physical co-presence with important people “back home,” constrains their social ties to the homeland. Short returns home thus act as a mediator of irregular legal statuses. If migrants with irregular legal status experience territorial confinement that constrains their ability to circulate, and if short visits to the homeland allow migrants to maintain affective ties and gather information, and if these ties and information encourage migrants to participate in other forms of cross-border action, then migrants with irregular legal status should participate less in those forms of cross-border action that depend in some way on physical presence in the homeland.

While the literature is suggestive of this indirect effect of irregular legal status on non-mobile transnational activities, few studies have simultaneously examined the direct relationship between short returns and non-mobile transnational activities and the indirect relationship between irregular legal status and non-mobile transnational activities transmitted via inhibited cross-border mobility. Waldinger (2008:24) notes that “better settled migrants with secure legal status are more likely to engage in activities requiring physical presence in the homeland,” but he does not examine the impact that migrants’ legal status has on both physical presence in the homeland and the activities that require such presence. This impels us to examine this indirect link and to hypothesize that *irregular legal status will indirectly constrain non-mobile transnational activities*. Senegalese migrants who do not have the ability to circulate between destination and origin because of their irregular legal status are effectively prevented from engaging in transnational livelihoods that depend on this circulation.

### **5.3 Transnational activities of Senegalese migrants**

Senegalese migrants in Europe and across the globe have been noted for their regular and sustained participation in the lives of the kin and communities they left behind in their homeland. Studies of Senegalese migrants have argued that they live their lives across borders in multiple places simultaneously and that the dominant mode of organization of their migration experience is transnational (Kane 2011) with an overriding goal of creating economic, social, and spiritual lives in Senegal to which they hope to return (Riccio 2008). Indeed, Senegalese are quite active in a number of transnational spheres. Official monetary remittances to Senegal tripled between 2002 and 2008, rising from \$305 million to \$1.2 billion; and while the financial crisis of 2008 took its toll, estimates for 2010 still place official remittances at \$1.16 billion, or about 10% of GDP (Cisse 2011).

In terms of the absolute value of remittance flows, Senegal ranks fourth in sub-Saharan Africa, behind only demographic giants Nigeria, Kenya, and Sudan, while it ranks fourth in remittances as a percentage of GDP behind the much smaller countries of Lesotho, Togo, Cape Verde, and Guinea-Bissau (Cisse 2011). In addition, official remittances are thought to make up only 54% of total remittances. Studies have highlighted the impacts of these monetary flows in Senegal at the household and macroeconomic level: remittances reduced poverty nation-wide by 30%, and accounted for a large portion of national

macroeconomic accounting, ahead of both foreign direct investment and official development assistance and equal to about 40% of export earnings (Cisse 2011).

The transnational activities of Senegalese migrants are not limited to remittances. Short visits to Senegal by migrants residing abroad are an integral part of what Kaag (2008) calls a “circular transnational livelihood,” facilitating trade and other economic transactions (Riccio 2008). Recent quantitative work on Senegalese migration has shown that Senegalese are more likely than Ghanaians or Congolese to make visits to their home country: half of Senegalese migrants visit Senegal within five years of departure, while only a third of Ghanaians and 10% of Congolese do so (Schoumaker et al. 2013). Tall (2008) argues that urban migrants have invested a large proportion of their foreign earnings in real estate, and that these visible (and occasionally ostentatious) signs of success have played a large role in creating a “culture of migration” that sustains a transnational social field and quantitative research has recently found Senegalese migrants to have a high propensity to invest in Senegal (Schoumaker et al. 2013). Senegalese migrants also participate in a variety of transnational associations, which collect funds from migrants to promote construction of schools, health centers, roads, irrigation systems, and places of worship in their villages or hometowns, in addition to providing moral and financial support to co-national migrants at destination (Grillo and Riccio 2004; Kothari 2008). Their families also tend to be transnational: family reunification is lower among Senegalese migrants than among other African migrants in Europe, with spouses commonly remaining in Senegal (Schoumaker et al. 2013). Senegalese migrants thus participate in a wide variety of transnational activities, lending credence to the assertion that they organize their migration strategies along transnational lines.

Despite the apparent ubiquity of transnational engagement among Senegalese migrants, studies have also demonstrated that these migrants’ cross-border activities are constrained by their lack of secure legal status. Senegalese migrants without residence papers are “stuck” in their destination (Kaag 2008; Kane 2011): they do not have the legal ability to cross the border that separates them from their homeland. Riccio (2001, 2008) highlights the important role that acquisition of the *permesso di soggiorno* plays for Senegalese migrants in Italy: without it, they are not able to practice the circular transnational livelihoods that purportedly mark the Senegalese migration experience.

Lack of legal status constrains the mobile and non-mobile transnational activities of Senegalese migrants. This constraint is all the more important given the often precarious legal situation in which Senegalese migrants in Europe find themselves (see chapter 3 for an examination of the pathways into irregular status among Senegalese migrants). Senegalese have long been suspected of participating in “clandestine” or irregular migration strategies in Europe. Senegalese migrants were targets as “false tourists” in France during the late 1960s (Diop 1993; Spire 2005) and were publicly visible in the *sans papiers* movement in the 1990s (Timera 1997). Senegalese in Italy and Spain may have first entered these destinations in a quest for legal status through regularization programs, and remain among the nationalities with the highest rates of irregularity.

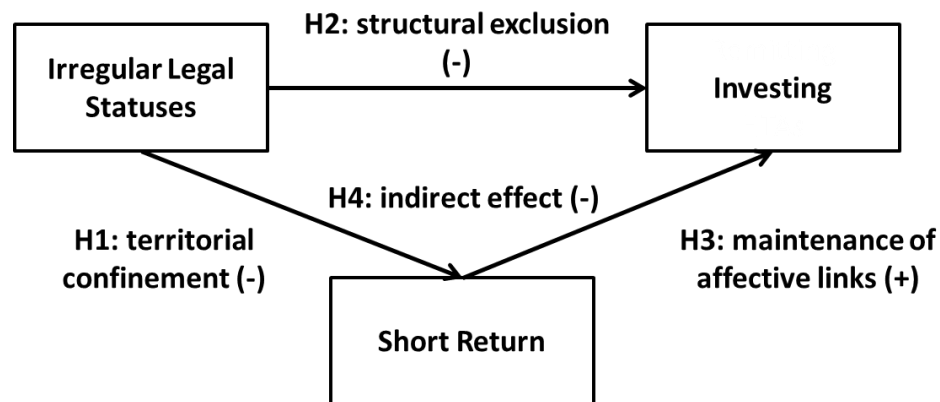
This paper will explore the link between legal status and the transnational activities of Senegalese migrants in France, Italy, and Spain. While there is a voluminous research literature on the cross-border activities of migrants, few of these studies focus explicitly on the impact of migrants’ legal statuses on their transnational engagement (Van Meeteren 2012). When the literature does mention legal status, it either simply assumes that irregular migrants are excluded from cross-border activities or finds that they are somehow structurally excluded without examining how this exclusion happens. Much of this lack of recognition of the role of legal status could be due to the apparent lack of a direct link between legal exclusion and cross-border participation. Many researchers may concur with Sciortino, who argues that “[l]egal status is significant, indeed relevant, only when and if – and to the degree to which – the legal reality is a constraint over the relationships and actions of the actor” (2004:22) and assume that the legal reality is not a constraint over transnational action. This paper will explicitly examine the extent to which the legal reality is a constraint over this kind of action among Senegalese migrants in Europe.

## 5.4 Hypotheses

Figure 5.1 summarizes the hypothesized relationships between irregular legal status and Senegalese migrants’ cross-border engagement. The *territorial confinement* hypothesis (H1) posits a direct legal constraint of irregular status on migrants’ short returns to Senegal. The *structural exclusion* (H2) hypothesis postulates a direct legal constraint of irregular status on migrants’ abilities to participate in formal institutions that may promote non-mobile cross-border engagement; irregular status is thus a proxy

for unmeasured blockages of participation in such institutions. The *affective ties* (H3) hypothesis suggests a link between short returns and non-mobile transnational activities via the maintenance of affective links and the ability to gather first-hand information through occasional physical presence in the homeland. Finally, the *caging hypothesis* (H4) posits that the territorial confinement of migrants with irregular statuses (H1) constrains social ties with the homeland (H3) in a way that dampens non-mobile cross-border activities. The legal reality thus constrains cross-border action in a multitude of direct and indirect ways that depend, in part, on the crossing of physical and institutional borders.

Figure 5.1: Theoretical model



## 5.5 Data and Methods

### 5.5.1 Data source

The analyses performed in this chapter will rely on a data from the Migration between Africa and Europe (MAFE-Senegal) project. While chapters 1 describes the project in detail, this section will highlight some additional features of the data that are pertinent for this chapter’s analyses. The multi-sited character of the MAFE data allows inclusion in the analyses of individuals who have returned to Senegal after a stay in Europe and thus avoids potential biases in the retrospective measurement of transnational activities. Furthermore, the inclusion of three different countries allows study of the extent to which transnational practices vary according to the context of reception, especially in relation to varying policy contexts regarding legal status. The retrospective nature of the data allows longitudinal and time-varying analyses, which are important as both legal status and transnational participation are likely to vary from year to year over a migrant’s stay at destination.

### **5.5.2 *The study population***

This study selected all person-years during which an individual was a migrant in France, Italy, or Spain. The sample thus includes person-years contributed by return migrants in Senegal who spent time in one or more of the three European countries. Migrants interviewed in any of the European countries may also contribute person-years to the analysis of other countries if they previously spent time in those countries (i.e., migrants can have more than one trip). The total analytic sample comprises 658 individuals contributing 8,188 person years. The French subsample contained 264 individuals and 3,677 person-years, the Italian subsample contained 200 individuals contributing 2,413 person-years, and the Spanish subsample comprised 198 individuals and 2,098 person years.

### **5.5.3 *Outcome variables***

Modules of the MAFE biographical questionnaire gathered information on migrants' transnational practices, including short returns to Senegal, remittances, investments, and participation in associations (see Appendix B for the wording of the questions). The outcome variables in this chapter are four separate time-varying indicators of the four types of transnational activities among Senegalese migrants in France, Italy, and Spain.

For short returns, the interviewer asked migrants in which they returned to Senegal while living abroad. I created a dichotomous variable indicating a short return to Senegal (with "1" indicating a visit and "0" indicating no visit) for each year in which a visit took place.

For remittances, the interviewer asked if the individual regularly sent money to someone who lived in a different country, and, if so, during which periods and to which country. I created a dichotomous variable indicating remittances to individuals in Senegal (with "1" indicating remitting and "0" indicating no remitting) for each year in which a migrant reported sending money to someone living there. This variable thus captures the directionality and regularity of remittances, but not the amount remitted.

Investments were measured by asking individuals if they had ever owned (through gifting, inheritance, or purchase) assets in Senegal or elsewhere, and if so, when they owned the asset. I created a dichotomous variable indicating ownership of at least one asset in Senegal purchased while the migrant lived abroad

(with “1” indicating ownership and “0” indicating no ownership) for each year in which a migrant reported owning an asset there. This variable excludes inheritances or gifts.

For hometown associations (HTAs), migrants indicated the years during which they participated financially (via contributions or membership fees) in associations that finance projects in Senegal or support Senegalese migrants in Europe. I created a dichotomous variable indicating HTA participation (with “1” indicating participation and “0” indicating no participation) for each year in which a migrant contributions to such associations.

#### **5.5.4 Predictor variables**

##### **5.5.4.1 Legal status**

The main predictor variable of interest in the contexts of reception faced by Senegalese migrants is their legal status. As described in chapter 3, administrative histories in the MAFE questionnaire provided information on migrants’ statuses in the legal domains of entry, residence, and work authorization. This chapter uses the typology of legal statuses developed in chapter 3. As a reminder, this typology includes indicators of entry status and yearly combined residence and work authorizations. A dichotomous variable indicates entry status as visa (V) or no visa (NV) based on migrants’ responses about whether or not they had a visa when they entered the destination country; this variable is thus defined for the year of arrival for each trip. A composite categorical variable indicates legal status in each year during the migrant’s residence in a destination: RP\_WP (“fully regular status”), NRP\_WP (“mixed status, no residence permit”), RP\_NWP (“mixed status, no work permit”), NRP\_NWP (“fully irregular status”). As outlined in chapter 3, this categorical variable can and does vary over time.

##### **5.5.4.2 Context of reception**

Other facets of the context of reception include: a time-varying categorical variable indicating the migrant’s employment status (employed or unemployed, with inactive as the reference category). A time-varying dummy variable indicated the migrant’s occupation, comparing entrepreneurial self-employment, noted in the literature as being conducive to Senegalese migrants’ “transnational livelihood,” to all other types of employment. A time-varying dichotomous variable measures self-reported economic status, with having



the financial ability to cover basic needs being better than others in the same location compared to lesser self-reported status. A time-varying count of family members or friends residing in the same country as the migrant captures potential effects of social networks. In addition to the above variables measuring the context of reception, dummy variables for residence in Italy and Spain in a given year (with France as the reference category) enter into the models to measure heterogeneity between these destinations not already captured by individual-level variables.

#### 5.5.4.3 *Individual characteristics*

Variables measuring years in destination, years of education, sex, and age capture individual characteristics expected to be associated with higher propensity to engage in transnational activities. Years in destination is measured as completed years since arrival at a particular year's destination, and this metric is "reset" for each subsequent stay in a different destination; the models include a quadratic term on years in destination to account for potential non-linearities in its effect. Years of education is measured as an interval variable. In order to avoid age-period-cohort collinearities with other variables, age at migration, which remains fixed over a given migration spell for an individual but then changes if the same individual migrates to another destination, enters the equation. A variable measuring number of previous migrations to Europe captures migration-specific human and social capital accumulated by an individual over multiple trips.

#### 5.5.4.4 *Context of exit*

Research on Senegalese migration and transnationalism shows evidence of differential effects by ethnicity, a dichotomous variable indicates Senegalese ethnic group: Wolof, with other ethnic groups (including Mandingue, Pular, Soninké, and other) as the reference category<sup>16</sup>. Research has also shown that religion, especially membership in Islamic Sufi brotherhoods, plays an important role in structuring Senegalese transnationalism (Riccio 2001). The model thus includes a dummy for belonging to the Mouride

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<sup>16</sup> Qualitative research on Senegalese transnationalism has found that Senegalese in the new destination of Italy are extremely likely to participate in "transnational livelihoods" (Riccio 2008). As Senegalese in Italy tend to be from the Wolof ethnic group and adherents of the Mouride brotherhood, these modalities are tested as variables in the models.

brotherhood, with all other religious categories (including Tidiane, Layene, other Muslim, and not Muslim) as the reference group.

A set of time-varying indicators of the migrant's familial connections with individuals in Senegal measures affective links to the home community, including having a spouse in Senegal, having children in Senegal, and having at least one parent alive in Senegal. A dummy variable indicating family contributions to the financing of the migrant's trip (which can vary for each trip) captures instrumental or contractual relationships with the family that might be expected to structure some kinds of transnational activities (Chort, Gubert, and Senne 2012). A variable indicating the migrant's identification of Dakar—far and away the country's most important urban area—as place of origin measures the different geographical zones corresponding to different migration streams from Senegal. A dummy for father's schooling (less than secondary school) measures the socioeconomic status of the sending family.

#### *5.5.4.5 Short returns*

The dichotomous time-varying indicator for short returns was included in the model for the non-mobile transnational activities of remitting, investing, and HTA participation, allowing testing of hypotheses 3 and 4.

#### *5.5.4.6 Period effects*

To account for potential period effects on the propensity to engage in transnational activities, I include a dummy indicating arrival in the 1990s or 2000s, with arrivals prior to 1990 as the reference category. This choice of categories stems from the change in profile of Senegalese migrants in the 1990s, which corresponded to a change in social origins and destinations in Europe (Schoumaker et al. 2013).

### *5.5.5 Models*

Exploiting the longitudinal and time-varying nature of both outcome and explanatory variables requires methods that account for clustering. Regular generalized linear models make the important assumption of conditional independence between observations. Such models, however, are unsuitable for data featuring

repeated observations on the same individual, which are likely to violate the assumption of independence<sup>17</sup>. Including a person-specific random intercept allows the dependence to be captured by the model (Rabe-Hesketh and Skrondal 2008). This model can be written as

$$\text{logit}\{Pr(y_{it} = 1 | \mathbf{x}_{it}, \zeta_i)\} = \beta_1 + \mathbf{x}'_i\beta_2 + \mathbf{x}'_{it}\beta_3 + \zeta_i$$

where  $y_{it}$  is the dichotomous outcome indicator of participation in a given transnational activity for person  $i$  during year  $t$ ,  $\beta_1$  is a constant,  $\mathbf{x}'_i$  is a vector of time-constant explanatory variables,  $\mathbf{x}'_{it}$  is a vector of time-varying explanatory variables,  $\beta_2$  and  $\beta_3$  are regression coefficients, and  $\zeta_i$  is the person-specific random intercept. All outcome and predictor variables are observed at time  $t$ <sup>18</sup>. The random intercept is assumed to be independent across respondents  $i$  and conditionally normally distributed with mean zero and variance  $\psi$ :

$$\zeta_i | \mathbf{x}_{it} \sim N(0, \psi).$$

The person-specific random intercept induces the dependence between repeated observations, and can also be thought of as capturing unobserved heterogeneity in the propensity to engage in the outcome (Rabe-Hesketh and Skrondal 2008).

I estimate a random intercept model for each of my four outcome variables on the pooled three-country sample using Stata version 12's `xtlogit` command, which employs adaptive Gauss-Hermite quadrature to approximate the likelihood function (Rabe-Hesketh and Skrondal 2008). Sensitivity tests indicated forty-eight quadrature points were appropriate for fitting the models accurately.

Dependence among the dichotomous responses for the same person can be summarized by the residual intraclass correlation ( $\rho$ ) of the underlying latent outcome variable given the explanatory variables:

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<sup>17</sup> Models from previous chapters of this dissertation either used dynamic survival models that do not violate assumptions of independence or selected cross-sectional samples of the data and thus did not need to account for repeated observations on the same individual. All models in previous chapters included corrections to standard errors to account for clustering arising from including multiple trips for individuals, but that clustering is a distinct phenomenon from the variety considered here.

<sup>18</sup> All models were also estimated with lagged predictors measured at time  $t - 1$  but results (not reported, available upon request) were substantively similar.

$$\rho = \frac{\psi}{\psi + \pi^2/3}$$

Intraclass correlation for dichotomous outcomes is expressed in terms of the latent responses because intraclass correlation for observed outcomes varies according to the values of the predictor variables. Rodríguez and Elo (2003) propose setting the observed predictors to the selected percentiles (such as the median) in order to allow for examination of this correlation for the manifest (observed) outcome. These measures of unobserved heterogeneity will help quantify the extent to which individuals are prone to engage in transnational activities even after accounting for observed covariates. In the case of high intraclass correlation, it is possible that individuals have intrinsically high or low probabilities of engaging in certain transnational activities.

#### **5.5.6 Estimating indirect effects in a non-linear framework.**

The caging hypothesis posits an indirect effect of legal statuses on non-mobile transnational activities via the mediating variable of short returns. Estimation of this indirect effect is straightforward in an OLS model: the difference in the coefficients for the legal-status variables in models with (the “reduced model”) and without (the “full model”) the mediator variable can be considered the indirect effect of that variable. In a non-linear framework, however, the underlying latent has a scale that is unknown and depends on the predictors included in the model, and thus calculating indirect effects in nonlinear models using techniques developed for linear regression conflates rescaling with mediation (Mood 2010; Karlson and Holm 2011). Kohler, Karlson, and Holm propose a method (hereafter, “KHB method”) for effect decomposition in a non-linear framework (Kohler, Karlson, and Holm 2011). They propose extracting the information that is not contained in the predictor variable of interest from mediator by calculating the residuals of a regression of the mediator on the predictor variable of interest and using the residuals of this regression, which have the same standard deviation as the mediator variable itself and thus induce the same scale for the coefficients, in the reduced model. The KHB method will allow the calculation of the indirect effects of legal statuses on non-mobile transnational activities as transmitted by the mediator variable of short visits to the homeland.

## 5.6 Results

### 5.6.1 Descriptive results

Descriptive results provide support for the first two hypotheses: migrants with irregular status return home less frequently, indicating that territorial confinement accompanies these irregular statuses; and migrants with irregular statuses participate less frequently in non-mobile transnational activities, indicating that their lack of secure legal status directly blocks them from cross-border action. Table 5.1 presents weighted<sup>19</sup> descriptive statistics by legal status for the analytic sample under study. The outcome variables indicating transnational activities are represented by the proportion of person-years in which migrants engaged in each activity. These descriptive statistics indicate significant variation in the prevalence of each activity. On average, Senegalese migrants remit in about 72% of the person-years, while they engage in the other transnational activities much less frequently. Short returns occur in about 30% of person-years, migrants report owning assets in Senegal about 25% of the time, and they participate in HTAs in about 19% of person-years. In addition, this table indicates that there is significant variation in the prevalence of these activities across legal statuses, with *F*-statistics all significant at  $p < 0.001$ .

Migrants with fully regular (RP\_WP) legal status are the most likely to visit the homeland, remit, and invest, while migrants with fully irregular (NRP\_NWP) status are the least likely to participate in all of the transnational activities. Those migrants with only work authorization (NRP\_WP) are the most likely to participate in associations.. Migrants with only residence authorization (RP\_NWP) are less likely than migrants with either fully regular status or work-only authorization to engage in all transnational activities. This is even true for visits to the homeland: migrants with only a residence permit reports such visits less frequently than migrants with only a work permit, indicating that a residence permit in and of itself, which should grant the legal ability to circulate, is not sufficient for successful circulation. Indeed, migrants with both a residence and a work permit report short returns to Senegal in almost 39% of person-years, indicating that fully regular status is positively associated with visits home.

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<sup>19</sup> Normalized sampling weights were applied to the data. See Schoumaker and Mezger (2013) for a description of the calculation and use of weights with the MAFE data.

Table 5.1: Descriptive statistics for MAFE-Senegal sample, by legal status

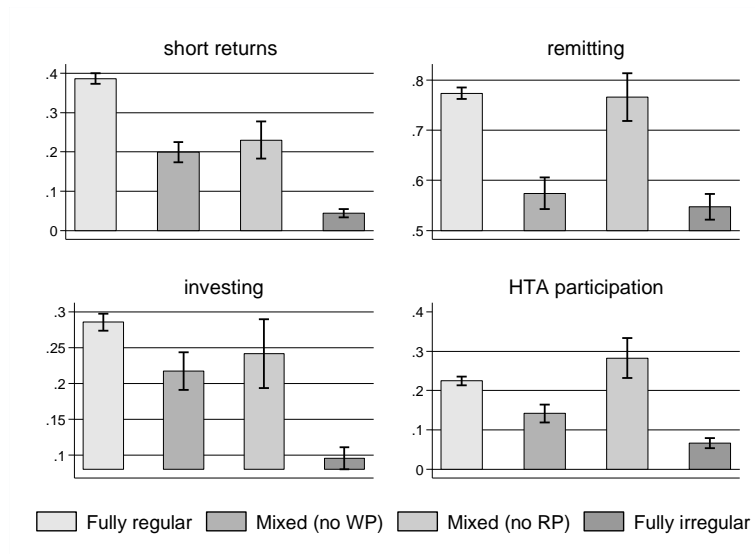
<i>Variable</i>	<i>Legal status</i>								<i>Total</i>	
	<i>Fully Irregular</i>		<i>Mixed (no RP)</i>		<i>Mixed (no WP)</i>		<i>Fully Regular</i>			
	<i>Mean</i>	<i>SD</i>	<i>Mean</i>	<i>SD</i>	<i>Mean</i>	<i>SD</i>	<i>Mean</i>	<i>SD</i>	<i>Mean</i>	<i>SD</i>
Short returns	0.04	0.21	0.23	0.42	0.20	0.40	0.39	0.49	0.30	0.46
Remitting to Senegal	0.55	0.50	0.77	0.42	0.57	0.49	0.77	0.42	0.72	0.45
Asset ownership in Senegal	0.10	0.29	0.24	0.43	0.22	0.41	0.29	0.45	0.24	0.43
HTA financial participation	0.07	0.25	0.28	0.45	0.14	0.35	0.22	0.42	0.19	0.39
Legal status: fully irregular (NRP_NWP)	1	0	0	0	0	0	0	0	0.17	0.38
Legal status: mixed (NRP_WP)	0	0	1	0	0	0	0	0	0.039	0.19
Legal status: mixed (RP_NWP)	0	0	0	0	1	0	0	0	0.099	0.30
Legal status: fully regular (RP_WP)	0	0	0	0	0	0	1	0	0.69	0.46
Entry status: no visa	0.47	0.50	0.11	0.32	0.49	0.50	0.41	0.49	0.41	0.49
Destination: France	0.48	0.50	0.49	0.50	0.62	0.49	0.64	0.48	0.61	0.49
Destination: Spain	0.23	0.42	0.10	0.30	0.082	0.27	0.14	0.35	0.15	0.35
Destination: Italy	0.30	0.46	0.40	0.49	0.30	0.46	0.22	0.41	0.25	0.43
Years in destination	4.03	3.64	8.25	6.93	8.85	8.06	11.1	8.37	9.56	8.13
Period of arrival: post-1990	0.73	0.45	0.51	0.50	0.51	0.50	0.47	0.50	0.52	0.50
Age at start of current migration spell	27.1	7.88	26.7	5.60	27.8	6.69	26.8	6.83	26.9	6.97
Sex: Male	0.70	0.46	0.80	0.40	0.63	0.48	0.71	0.46	0.70	0.46
Years of education	8.46	5.84	7.74	6.24	8.86	7.14	9.60	6.17	9.27	6.25
Ethnicity: Wolof	0.55	0.50	0.51	0.50	0.50	0.50	0.42	0.49	0.45	0.50
Religion: Mouride	0.50	0.50	0.46	0.50	0.33	0.47	0.29	0.45	0.34	0.47
Unemployed	0.05	0.22	0.03	0.16	0.015	0.12	0.025	0.16	0.03	0.17
Employed	0.77	0.42	0.92	0.28	0.72	0.45	0.84	0.37	0.82	0.39
Inactive	0.18	0.39	0.058	0.23	0.27	0.44	0.14	0.34	0.15	0.36
Occupation: self-employed	0.26	0.44	0.20	0.40	0.16	0.37	0.08	0.27	0.12	0.33
Self-reported economic status: good	0.12	0.33	0.05	0.22	0.06	0.23	0.07	0.25	0.08	0.26
Number of contacts at destination	2.03	2.02	1.94	2.15	3.07	2.55	3.68	2.78	3.27	2.71
Number of trips	1.57	0.82	1.29	0.73	1.56	0.95	1.43	0.96	1.46	0.93
Does not speak language of destination	0.41	0.49	0.29	0.46	0.36	0.48	0.23	0.42	0.28	0.45

<i>Variable</i>	<i>Legal status</i>								<i>Total</i>	
	<i>Fully Irregular</i>		<i>Mixed (no RP)</i>		<i>Mixed (no WP)</i>		<i>Fully Regular</i>			
	<i>Mean</i>	<i>SD</i>	<i>Mean</i>	<i>SD</i>	<i>Mean</i>	<i>SD</i>	<i>Mean</i>	<i>SD</i>	<i>Mean</i>	<i>SD</i>
Kids in Senegal	0.40	0.49	0.39	0.49	0.37	0.48	0.29	0.45	0.32	0.47
Spouse in Senegal	0.39	0.49	0.42	0.49	0.32	0.47	0.32	0.47	0.34	0.47
Geographic origin: from Dakar	0.31	0.46	0.26	0.44	0.28	0.45	0.28	0.45	0.28	0.45
Father's ed.: less than secondary school	0.72	0.45	0.75	0.43	0.67	0.47	0.67	0.47	0.68	0.47
Trip paid by family	0.32	0.47	0.24	0.43	0.49	0.50	0.41	0.49	0.40	0.49
Plan to stay: definitive	0.53	0.50	0.32	0.47	0.37	0.48	0.45	0.50	0.45	0.50
Trip motivation: work/better life	0.62	0.49	0.76	0.43	0.42	0.49	0.56	0.50	0.56	0.50
At least one parent alive in Senegal	0.86	0.35	0.91	0.29	0.89	0.32	0.77	0.42	0.80	0.40
N (person-years)	1,448		307		937		5,496		8,188	
N (trips)					768					

Source: MAFE-Senegal. Notes: sampling probability weights applied.

The descriptive evidence supports the hypothesis that those migrants who make short returns home have a higher propensity to engage in non-mobile transnational activities. Figure 5.2 displays variation in transnational activities conditional on legal status. The figure suggests that migrants with fully regular legal status are more likely to participate in each transnational activity than migrants with fully regular legal status. In addition, in most cases, migrants with fully regular status are also more likely to participate in these activities than migrants with mixed statuses.

Figure 5.2: Average level of transnational activities, by legal status

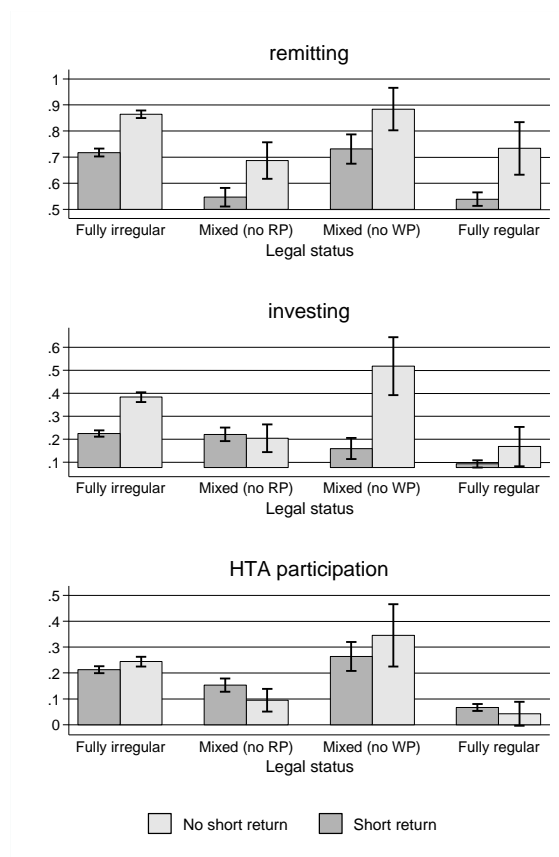


Source: MAFE-Senegal. Weighted data computed over person-years. 95% confidence intervals displayed

There is also descriptive support for the hypothesis of an indirect effect of territorial confinement on remitting, investing, and HTA participation via the inhibition of short returns. Figure 5.3 shows the variation in transnational activities conditional on both short returns legal status. Variation in non-mobile transnational activities by cross-border mobility is evident as in the previous figure: migrants who circulate are more likely to remit, invest, and participate in HTAs. In addition, this figure shows that legal status can operate through short returns to constrain non-mobile transnational activities: migrants who lack secure legal status and, as a result, do not visit the homeland engage in non-mobile transnational activities less frequently.



Figure 5.3: Average level of transnational activities, by short return and legal status



Source: MAFE-Senegal. Weighted data computed over person-years. 95% confidence intervals displayed

### 5.6.2 Multivariate results

Table 5.2 displays results from the random-intercept logistic regression of each yearly transnational activity. In these multivariate models, results are displayed as average marginal effects (AMEs). While chapter 3 outlines the rationale for presenting results as AMEs instead of logistic-regression coefficients or odds ratios, it is useful to review here some of their advantages. AMEs are useful for the interpretation of non-linear models and capture the expected change in the probability of the outcome associated with a one-unit or discrete change in a predictor variable (see Cameron and Trivedi 2010 for more information on average marginal effects). Mood (2010) argues that AMEs are appropriate for non-linear model comparisons, which is helpful when comparing the effect of a given variable across different models (the case of short returns here). For these random-effects models, AMEs are calculated assuming that the group-

specific intercept is set at the mean of the distribution of the random intercepts (i.e., zero). It is also useful to note that the results are subject-specific probabilities, and not population-average probabilities: they refer to the yearly individual probability of engaging in each transnational activity.

Each model's residual intra-class correlation ( $\rho$ ) is also listed and is indicative of the degree to which the latent variable underlying each outcome is correlated across years for the same individual and can be interpreted in a way analogous to a Pearson correlation coefficient. Short returns has the lowest intra-class correlation at  $\rho = 0.51$ , but the correlation at the level of the manifest outcome is lower, at 0.30; this indicates a fairly low within-person manifest correlation, with short returns on one occasion predicting 9% of the variability in short returns on a second occasion. Remitting and investing both have latent intraclass correlations of around 0.9, with lower manifest correlations of 0.71 for remitting and 0.76 for investing, indicating  $R^2$ s of 0.58 and 0.69, respectively. HTA participation has the highest intra-class correlation at 0.97, with a manifest correlation at the median of the predictors of 0.83. This high correlation between yearly outcomes for this activity over time within individuals means that 69% of the variability in HTA participation is accounted for by previous participation. The within-subject dependence of transnational activities is thus much higher for remitting, investing, and HTA participation than for short returns. These intra-class correlations reinforce the importance of using a model that takes this high degree of within-individual clustering into account.

The following discussion of multivariate results will focus principally on the relationship between legal status and the probability of engaging in each of the four transnational activities in any given person-year. The base category for the composite legal-status variable is fully regular status, wherein migrants have both residence and work permits (RP\_WP). The models also include a dichotomous variable for whether or not the migrant had a visa upon entry to the destination.

Table 5.2: Multivariate results for random-intercept regression models of transnational activities

<i>Predictor</i>	<i>Outcome</i>							
	<i>I. Short returns</i>		<i>II. Remitting</i>		<i>III. Investing</i>		<i>IV. HTA participation</i>	
	AME	se	AME	se	AME	se	AME	se
Short return (ref.: none)	-	-	0.060***	0.011	0.017***	0.0050	0.00083	0.0012
Legal status (ref: fully regular: RP_WP)								
Fully irregular (NRP_NWP)	-0.22***	0.016	-0.11***	0.021	-0.038***	0.0092	-0.0072*	0.0036
Mixed (NRP_WP)	-0.14***	0.027	0.056*	0.026	0.0053	0.018	0.00093	0.0047
Mixed (RP_NWP)	-0.077***	0.023	-0.030	0.020	0.0053	0.0093	-0.0018	0.0021
Destination (ref: France)								
Spain	0.0089	0.037	0.012	0.042	-0.020	0.022	-0.0064	0.0065
Italy	-0.038	0.034	-0.036	0.048	-0.048**	0.016	-0.010	0.0064
Entry status: no visa (ref: visa)	-0.010	0.020	-0.034+	0.020	0.0090	0.011	0.0011	0.0025
Years in destination	0.0099***	0.0013	0.022***	0.0020	0.0078***	0.0014	0.0012*	0.00047
Period of arrival: post-1990 (ref: pre-1990)	0.032	0.029	-0.015	0.038	0.0092	0.017	-0.0063	0.0056
Age at start of current migration spell	-0.00029	0.0020	0.0026	0.0025	0.0040**	0.0014	0.0012+	0.00069
Sex: Male (ref: female)	0.0100	0.031	-0.029	0.040	0.026	0.021	0.012+	0.0073
Years of education	0.0058*	0.0025	-0.0066+	0.0035	0.0021	0.0018	0.00088	0.00063
Ethnicity: Wolof (ref.: other)	0.034	0.029	0.0085	0.039	0.025	0.022	-0.0072	0.0051
Religion: Mouride (ref.: other)	0.047	0.032	0.0022	0.041	-0.040+	0.022	-0.010*	0.0049
Economic activity (ref.: unemployed)								
Employed	0.036	0.031	0.46***	0.050	-0.021	0.015	0.0097*	0.0046
Inactive	0.0029	0.035	0.098+	0.053	-0.023	0.017	0.0085*	0.0043
Occupation: self-employed (ref.: other)	-0.018	0.024	-0.048+	0.027	-0.025**	0.0094	-0.0018	0.0027
Self-reported econ. status: good (ref.: bad)	0.041	0.035	-0.026	0.034	0.061**	0.023	-0.0022	0.0038
Number of contacts at destination	0.0011	0.0040	-0.0074+	0.0038	0.011***	0.0026	0.00099	0.00068
Number of trips	0.0090	0.012	0.072***	0.017	0.052***	0.0099	0.0083+	0.0045
Does not speak language of destination	-0.022	0.029	0.081*	0.035	-0.016	0.017	0.060**	0.022
Kids in Senegal (ref.: no)	-0.0018	0.019	0.072***	0.020	0.029**	0.0094	-0.0064*	0.0031
Spouse in Senegal (ref.: no)	0.15***	0.026	0.038+	0.021	0.020*	0.0092	0.0057	0.0038
Geographic origin: from Dakar (ref.: other)	0.021	0.028	-0.037	0.038	-0.027	0.020	-0.010+	0.0055
Father's ed.: < secondary school (ref.: more)	-0.016	0.029	-0.063+	0.037	0.0037	0.021	-0.0075	0.0078

<i>Predictor</i>	<i>Outcome</i>							
	<i>I. Short returns</i>		<i>II. Remitting</i>		<i>III. Investing</i>		<i>IV. HTA participation</i>	
	AME	se	AME	se	AME	se	AME	se
Trip paid by family (ref.: no)	-0.013	0.027	-0.0051	0.038	0.0047	0.016	0.0098	0.0068
Plan to stay: definitive (ref.: no)	-0.010	0.025	-0.099**	0.033	-0.013	0.015	-0.0057	0.0045
Trip motivation: work/better life (ref.: other)	-0.0044	0.025	0.14***	0.035	0.054**	0.017	0.0041	0.0042
At least one parent alive in Sni (ref.: no)	-0.053*	0.022	0.12***	0.024	-0.0079	0.0090	0.00045	0.0022
Log likelihood	-3411.38		-1938.61		-1508.39		-1001.3	
$\rho$ (latent)	0.51		0.90		0.94		0.97	
Pearson's $r$ (manifest)	0.30		0.71		0.76		0.83	
Observations (person-years)	8,119							
Observations (individuals)	658							

Source: MAFE-Senegal. Notes: +  $p < 0.10$ , \*  $p < 0.05$ , \*\*  $p < 0.01$ , \*\*\*  $p < 0.001$ . Average marginal effects (AMEs) calculated with individual-specific intercept assumed at mean of distribution of random intercepts.

### 5.6.2.1 Hypothesis 1: Territorial Confinement

#### 5.6.2.1.1 Short Returns

The descriptive results provided some measure of support for the hypothesis of territorial confinement:

Senegalese migrants with fully regular (RP\_WP) status are the most likely to make short visits home, while those migrants with irregular statuses, and especially migrants completely bereft of regular status, have a much lower likelihood of circulation. These results are overall averages, however, and do not take into account the clustered nature of the data nor the potential confounding effects of other predictors. Model I of Table 5.2 shows the results of the multivariate random-intercept logistic regression of yearly reports of short returns.

These results indicate that the association between legal status and visiting the homeland is robust: compared to migrants with fully regular (RP\_WP) status, those migrants with fully irregular or mixed statuses are statistically significantly less likely to circulate. Senegalese migrants with fully irregular (NRP\_NWP) status are 22 percentage points less likely to report a visit to Senegal in any given year than migrants with fully regular (RP\_WP) status. As Figure 5.4 shows, this translates into a subject-specific predicted probability of circulation for migrants with fully irregular status of 3%, while those migrants with both residence and work authorization have a subject-specific predicted probability of roughly 25%; having fully regular status is thus associated with a seven-fold increase in the probability of making a visit home compared to having fully irregular status. Senegalese migrants who lack any kind of legal authorization have little chance of visiting the homeland because they are largely confined to the territory of the countries in which they reside.

Figure 5.4: Predicted probability of short return, by legal status category

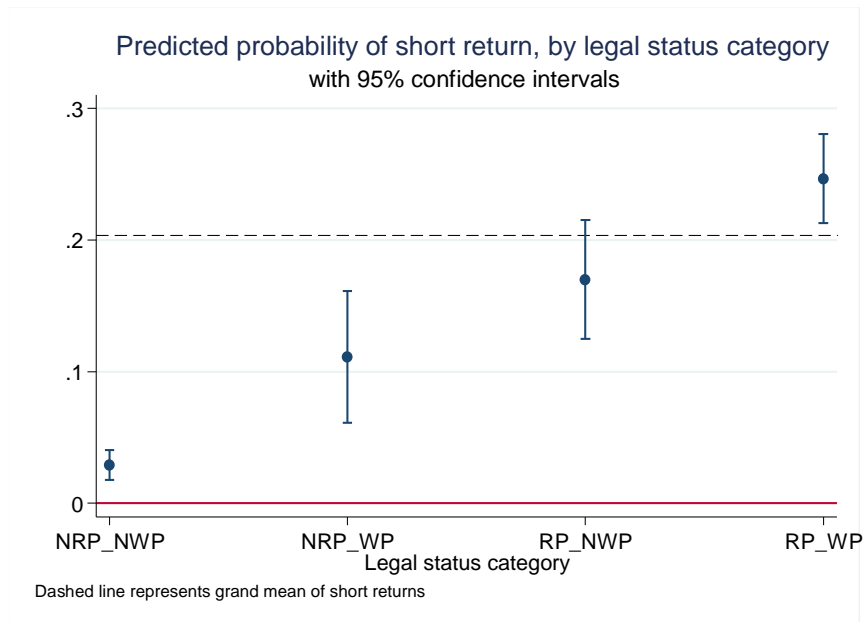


Table 5.2 also indicates that migrants with semi-irregular or mixed statuses are also less likely than migrants with fully regular status to circulate between destination and origin. Lacking only a residence permit (NRP\_WP) is associated with a 14-percentage-point gap in the probability of visiting the homeland compared to migrants with fully regular status, while lacking only a work permit (RP\_NWP) is associated with an 8-point gap. Although Senegalese migrants with these mixed statuses have a higher predicted probability of circulating than migrants with fully irregular status, they still experience a degree of territorial confinement compared to migrants with fully regular status. Figure 5.4 shows that migrants with mixed status have a predicted probability of circulating of between 11% and 17%. While yearly legal status clearly has a robust association with short returns, visa status at entry was not significantly associated with this outcome.

The model also indicates that there is no significant variation in the probability of short returns between destination countries, and additional models (not reported) failed to find a significant interaction between the legal-status and destination predictors. These multivariate results thus support the hypothesis of territorial confinement: Senegalese migrants who lack one or both forms of authorization are significantly less likely to engage in short returns to Senegal, and that this effect is constant across destinations. The

legal reality that creates these irregular statuses thus functions as an important constraint on this physical, mobile form of cross-border action. There is thus support for the territorial confinement hypothesis.

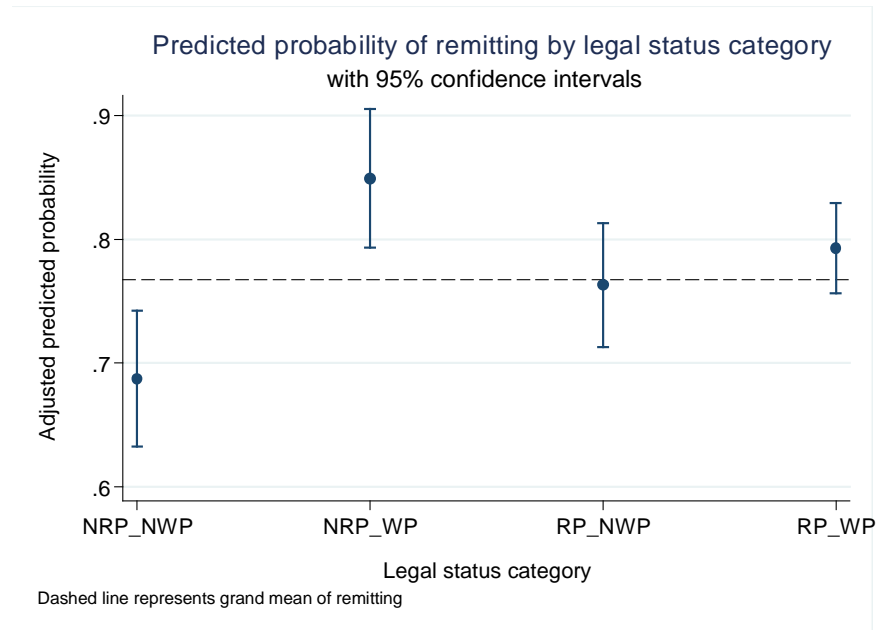
#### 5.6.2.2 *Hypothesis 2: Blocked transnationalism/structural exclusion*

Blocked transnationalism/structural exclusion was evident in the descriptive results: Senegalese migrants with fully regular (RP\_WP) status were the most likely to engage in the non-mobile transnational activities of remitting, investing, and HTA participation, while migrants with fully or semi-irregular statuses were less likely to participate in these activities. This blockage as a result of lack of secure legal status is also evident in the multivariate results of Table 5.2

##### 5.6.2.2.1 **Remitting**

Model II of Table 5.2 shows the results of the random-intercept logistic regression of yearly reports of remitting. Compared to migrants with fully regular (RP\_WP) status, those migrants with fully irregular (NRP\_NWP) status are almost 10 percentage points less likely to report remitting in any given year. As Figure 5.5 shows, this translates into a subject-specific predicted probability of remitting of 69% for Senegalese migrants who lack both forms of authorization, compared to a predicted probability of almost 80% for migrants with fully regular status. Senegalese migrants who lack any form of legal authorization thus experience some kind of structural exclusion as a result of this status that is associated with a lower probability of remitting. It is worth noting, however, that the predicted probability is still relatively high even for migrants with fully irregular status, indicating a near-universality of remitting among Senegalese migrants and an ability to circumvent formal barriers to these transfers. In addition to the negative effect of yearly irregular status, having entered without a visa is also negatively associated with remitting (although only at  $p < 0.10$ ).

Figure 5.5: Predicted probability of remitting by legal status category



The story for the mixed/semi-irregular statuses is less clear. Compared to having both a residence and work permit (RP\_WP), having a residence permit but not a work permit (RP\_NWP) is negatively but not significantly associated with remitting, while having a work permit but not a residence permit (NRP\_WP) is positively and significantly associated with remitting. Senegalese migrants with only a work permit have a predicted probability of remitting of approximately 85%, making them the group most likely to send money to Senegal. Migrants experience this status quite infrequently (less than 4% of person-years), however, and most likely as a result of somewhat rare dysfunctions in the receiving states' immigration-control bureaucracies, or simply as the result of poor recall on the part of migrants. The legal reality thus seems to operate as a constraint only on those migrants who lack all forms of authorization instead of those with mixed statuses.

#### 5.6.2.2.2 Investing

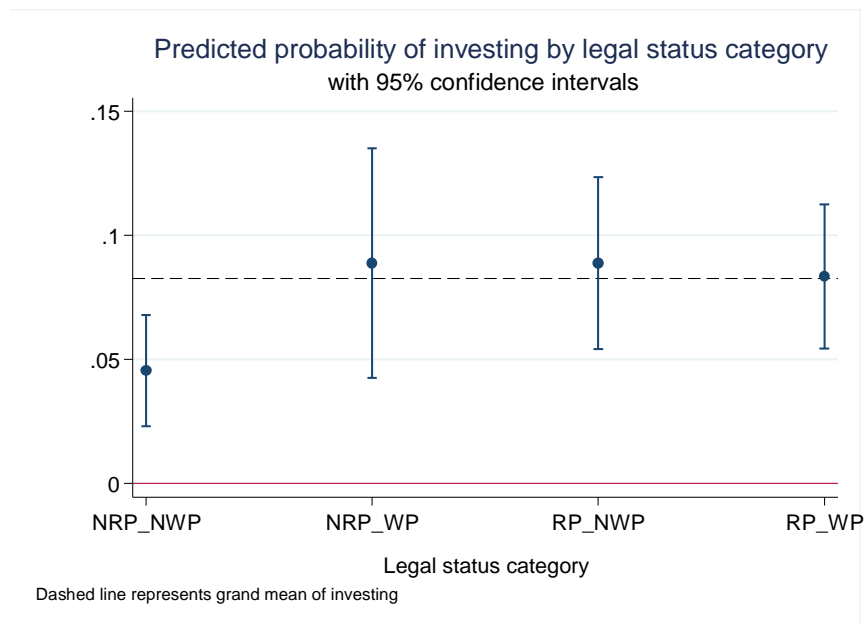
Model III of Table 5.2 displays the results from the random-intercept logistic regression of yearly reports of asset ownership in Senegal. These results confirm the negative descriptive association between fully irregular (NRP\_NWP) status and investing: Senegalese migrants who lack both a residence permit and a work permit are almost 4 percentage points less likely to own assets in Senegal than those migrants with



fully regular (RP\_WP) status. Figure 5.6 shows that migrants with fully regular (RP\_WP) status have a predicted probability of investing of 8.3%; this difference thus represents a 50% decrease in the probability of investing for migrants with fully irregular status. Contrary to the results for short returns and remitting, however, there is no statistically significant difference between migrants with mixed/semi-irregular statuses and migrants with fully regular status in the probability of investing, nor does visa status at entry have an effect. The constraint of legal status thus blocks or excludes only those migrants with fully irregular status from owning assets in Senegal.

Interestingly, migrants in Italy are significantly less likely than those in France to invest, which is the only destination-specific variation evident in any of the models. This could be related to the preponderance of Mouride migrants in Italy, who may be more likely to donate money to religious endeavors (as is pointed out below, belonging to the Mouride brotherhood is also negatively associated with this outcome).

Figure 5.6: Predicted probability of investing by legal status category

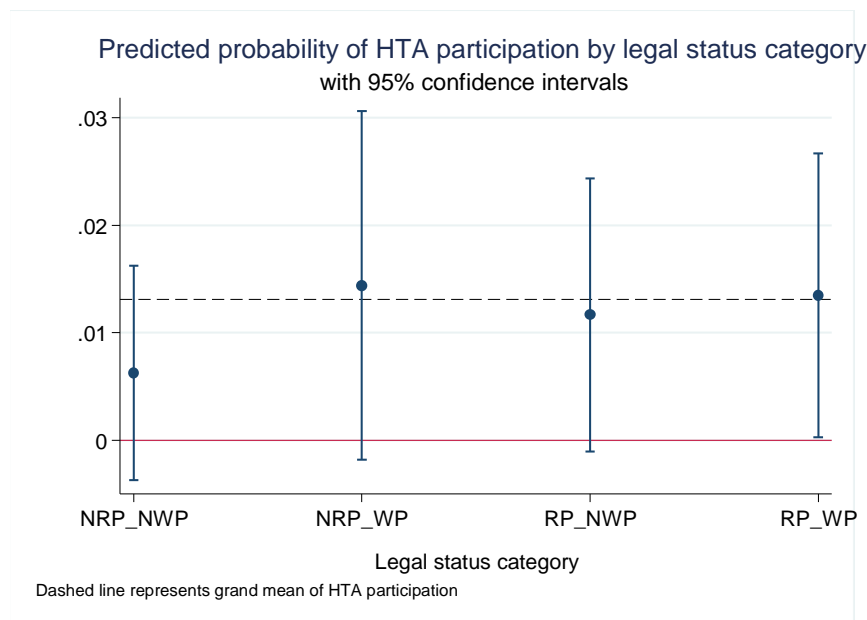


### 5.6.2.2.3 HTA Participation

Descriptive statistics indicated that Senegalese migrants with fully irregular legal status are the least likely to make financial contributions to HTAs. Model IV of Table 5.2 supports this finding: migrants who lack both a residence permit and a work permit (NRP\_NWP) are less likely than migrants with fully regular

status to contribute to such associations. The difference in probabilities between these categories of migrants is small: migrants with fully irregular status are only 0.8 percentage points less likely to participate in these associations than migrants with fully regular status. Nonetheless, as Figure 5.7 shows, even migrants with fully regular status have a subject-specific predicted probability of HTA participation of only about 2%; migrants with fully irregular status are thus 40% less likely than migrants with fully regular status to participate in HTAs. Visa status at entry shows no association with HTA participation.

Figure 5.7: Predicted probability of HTA participation by legal status category



Findings from these multivariate models show that fully irregular legal status is consistently associated with a lower probability of engaging in the non-mobile cross-border activities of remitting, investing, and HTA participation among Senegalese migrants, while mixed/semi-irregular statuses do not have a consistent association with these outcomes. There is thus evidence that complete lack of authorization serves as some kind of a legal constraint on these transnational activities. As the activities in and of themselves do not directly depend on the physical crossing of a national border, direct territorial confinement is not an explanation for this negative association.

Just as lack of legal status prevents the legal crossing of borders, though, lack of legal status could prevent migrants from crossing other institutional boundaries that might be important for transnational engagement.

Having fully irregular status might make migrants less likely to use formal financial services, which could limit their abilities to accumulate money and capital to repatriate as remittances or investments; they might also have fewer options for the actual transfer of funds or for accessing credit. Although it is clear that employment and good self-reported economic status are positively associated with these outcomes, these effects are net of the negative association with fully irregular status and thus do not mediate this effect.

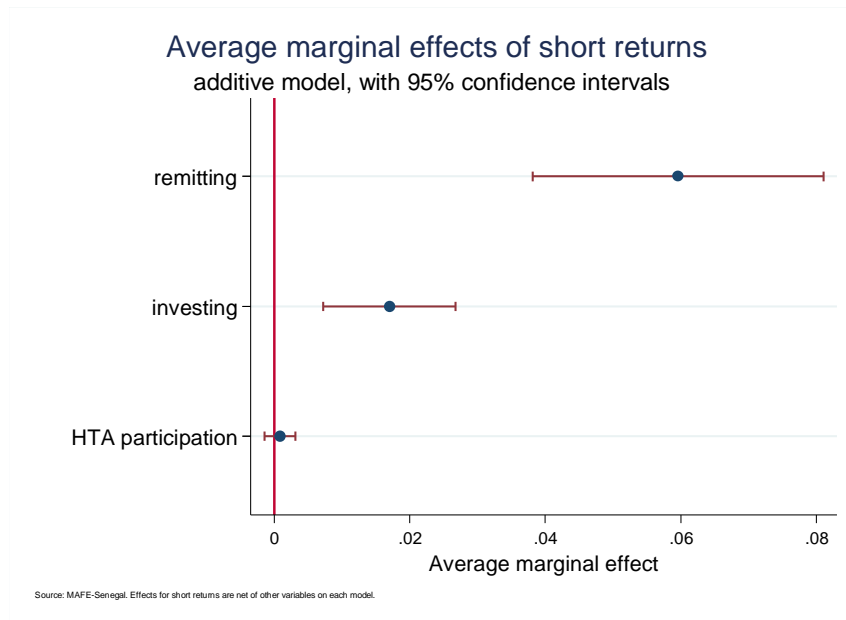
Furthermore, additional research has shown that lack of legal status does not negatively affect male Senegalese migrants' probability of employment in these three countries (see chapter 4); while employment *per se* is not limited by irregular status, it may constrain Senegalese migrants' ability to participate in the formal labor market, thus increasing these migrants' precariousness. Older migrants with more time in the destination country also tend to be more likely to participate in these non-mobile transnational activities, and these are the very migrants who tend to possess a more-secure legal status. While it is clear that migrants with fully irregular status may be excluded from some institutions which may in turn facilitate cross-border action, their transnational activities may also be blocked by the uncertainty and precariousness that accompanies their lack of secure legal status. There is thus evidence that the legal reality constrains the transnational action of migrants with fully irregular status, but the mechanism of this legal constraint is still somewhat blurry.

#### 5.6.2.3 *Hypothesis 3: Maintenance of affective ties*

#### 5.6.2.4 *Direct effect of short returns on non-mobile transnational activities*

The third hypothesis of this chapter is that visits to the homeland will promote other forms of non-mobile transnational activities through the maintenance of affective ties and the ability to gather first-hand information. The models for remitting, investing, and HTA participation thus include yearly short returns as a predictor, allowing examination of the direct effect of a visit home on these non-mobile activities. Models II, III, and IV in Table 5.2 display the direct effects of short visits to the homeland in the same year on each of the non-mobile outcomes. Returning to Senegal for a visit is associated with an increase of almost 6 percentage points in the probability of remitting and almost 2 percentage points in the probability of reporting asset ownership in Senegal. There is a positive association between short returns and participating in HTAs, but the effect is not statistically significant. These AMEs are displayed graphically in Figure 5.8.

Figure 5.8: Average marginal effects of short returns



For two of the three non-mobile transnational activities, then, there is a positive direct relationship between visiting home and the probability of cross-border action. Both remitting and investing are financial decisions that migrants make in conjunction with their families: migrants decide whether to send money to family in Senegal or to invest capital in assets in Senegal in response to personal and collective desires. While other factors may influence these decisions (as we will examine below), they are fundamentally about allocation of resources in an extended family unit and are thus responsive to bonds of trust and emotion with the receivers of those resources.

Financial decisions are thus subject to first-hand ties and the ability to gather information: short visits to Senegal thus allow migrants to strengthen social ties and gather information about investment opportunities via physical presence. These visits may also allow the family at origin to more effectively extract resources from the migrant, as the contract-centered literature (Chort et al. 2012) might suggest. The same cannot be said about participation in HTAs, wherein a migrant makes a decision to participate financially but the association makes a collective decision about how to allocate those funds. This allocation decision is thus less sensitive to individual, personal visits to the homeland and the affective and social-tie-reinforcing co-presence that such visits produce.

#### 5.6.2.4.1 Direct effect of other affective ties (spouse, children, other family ties)

Other variables in the multivariate models (see Table 5.2) also demonstrate the importance of maintaining social and informational ties for both visits to the homeland and the non-mobile transnational activities. Having a spouse in Senegal is highly predictive of traveling there for a visit: such migrants are 15 percentage points more likely than migrants without a spouse in Senegal to travel there. Other kinds of family ties, however, were not predictive of increased mobility: migrants with children in Senegal showed no statistically significant difference in the likelihood of a short visit, while migrants with at least one parent alive in Senegal were actually 5.3 percentage points less likely than migrants without still-living parents to make a trip back. Family ties to individuals residing in Senegal are predictive of increased individual non-mobile transnational engagements. Senegalese migrants with a child in Senegal are 7.2 percentage points more likely to remit and 2.9 percentage points more likely to report owning assets in Senegal.

Having a spouse residing in Senegal was similarly positively associated with higher non-mobile transnational engagement: Senegalese migrants with a spouse in the homeland are 3.8 percentage points more likely to remit (although at  $p < 0.1$ ), and 2 percentage points more likely to own assets. In addition, having at least one parent alive in Senegal is associated with a 12-percentage-point increase in the probability of remitting. Active social ties to family in Senegal clearly promote these individual economic non-mobile transnational activities.

In a by-now familiar pattern, HTA participation responds differently to these indicators of affective ties. Neither spouse nor living parent in Senegal has a significant association with HTA participation, while having a child in Senegal is negatively associated with participation in associations. Thus neither occasional physical co-presence in Senegal nor the residence of family members in Senegal is associated with collective cross-border activities. These results thus support the hypothesis that affective links with family members residing in the homeland encourage cross-border social action, but once again only for those financial activities that are responsive to these kind of personal affective ties.

#### 5.6.2.4.2 Direct effect of other circulation-related variables

Other variables also indicate the importance of circulating between destination and origin for ongoing non-mobile cross-border engagement. The number of trips is highly predictive of transnational activities: each additional prior trip is associated with a 7.2 percentage-point increase in the probability of remitting, a 5.2 percentage-point increase in the probability of investing, and an almost 1 percentage-point increase in the probability of HTA participation. Repeat migration (approximately 30% of the sample reported more than one trip) thus reinforces the transnational social field in such a way as to make non-mobile transnational action more likely for both individual and collective activities.

Other indicators of a circular migration strategy are also related to remitting and investing. Migrants who reported planning to stay definitively in the destination country (as reported by 46% of the sample) are 10 percentage points less likely to remit than those who do not plan to stay definitively, indicating that remitting is integral to Senegalese migrants' ability prepare an eventual return to Senegal. Migrants who reported having migrated principally for work or in search of a better life are 14 percentage points more likely to remit and 5.4 percentage points more likely to own assets in Senegal, suggesting that those migrants with a logic of accumulation are more likely to participate in these forms of financial cross-border action.

#### 5.6.2.5 Hypothesis 4: Caging and indirect effects of legal status via short returns

Results from the decomposition of direct effects indicate a significant negative indirect effect of fully irregular status on remitting and investing via the mediator of reduced short returns. While Table 5.2 displays the negative direct effects of irregular legal statuses and the positive direct effects of visits to the homeland on non-mobile transnational activities of Senegalese migrants, these models do not allow testing of the hypothesis of an indirect effect of irregular statuses on non-mobile activities via territorial confinement (see Figure 5.1 for the theoretical model). Table 5.3 presents results from the non-linear decomposition of total effects using the KHB method and shows the direct, indirect, and total effects<sup>20</sup> of

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<sup>20</sup> The effects are presented as logit coefficients (log-odds) so are not directly comparable to the quantities in **Error! Reference source not found.**. The direction and significance of the direct effects of legal status

irregular legal statuses on the non-mobile transnational activities of remitting, investing, and HTA participation.

Indirect effects of each of these statuses on the non-mobile activities run through the mediator of short returns. For remitting and investing, the indirect effect of fully irregular status (NRP\_NWP) is negative and significant: 14% of the total negative effect of legal status on remitting is due to short returns, while these short visits to the homeland account for 9% of the total negative effect of legal status on investing. Thus, migrants with fully irregular (NRP\_NWP) face not only a direct legal constraint from their irregular status but also an indirect negative constraint of their status via short returns: their irregular status directly reduces their ability to travel between destination and origin, and such visits encourage transnational engagement. The lack of ability to maintain and reinforce these social ties translates into reduced cross-border action. Irregular status serves to confine migrants to the territory of the destination and, and thus cages their non-mobile transnational activities.

The pattern of indirect effects for the two mixed statuses reinforces the notion that territorial confinement is an indirect legal constraint even on individual non-mobile transnational activities. While the direct effects of these two semi-irregular statuses on remitting and investing is somewhat complicated, the pattern of indirect effects is unambiguously negative, indicating that the direct negative legal constraint of these mixed statuses on the ability to visit the homeland indirectly reduces the remitting and investing of Senegalese migrants who lack either a residence permit or a work permit.

The KHB method thus finds evidence to support the hypothesis of an indirect effect of territorial confinement on remitting and investing. The KHB method fails to find an indirect effect of fully irregular (NRP\_NWP) or mixed statuses on HTA participation, which confirms the interpretation that this kind of

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on each non-mobile transnational activity are the same as those presented in **Error! Reference source not found.**: there is a negative direct effect of fully irregular status on all three non-mobile activities, and a non-significant direct effect of the semi-irregular statuses on investing and HTA participation.

Table 5.3: KHB decomposition of effects of legal status categories on non-mobile transnational activities via short returns

<i>Transnational activity</i>	<i>Legal status (ref: fully regular)</i>	<i>Direct effect (A)</i>	<i>Indirect effect (B)</i>	<i>Total effect (C = A + B)</i>	<i>Confounding ratio (C/A)</i>	<i>Confounding percentage (B/C)</i>	<i>B/A (= 1-CR)</i>
Remitting	Fully irregular	-1.828 ***	-0.293 ***	-2.122 ***	1.161	13.83%	0.161
	Mixed (no RP)	0.985 **	-0.169 ***	0.817 +	0.829	-20.69%	-0.171
	Mixed (no WP)	-0.584 *	-0.141 **	-0.725 **	1.241	19.44%	0.241
Investing	Fully irregular	-2.210 ***	-0.228 ***	-2.438 ***	1.103	9.35%	0.103
	Mixed (no RP)	0.126	-0.131 ***	-0.005	-0.040	2626.29%	-1.040
	Mixed (no WP)	0.002	-0.110 ***	-0.107	-45.731	102.19%	-46.731
HTA participation	Fully irregular	-1.979 ***	-0.082	-2.061 ***	1.041	3.96%	0.041
	Mixed (no RP)	0.366	-0.047	0.319	0.872	-14.74%	-0.128
	Mixed (no WP)	-0.365	-0.039	-0.404	1.107	9.70%	0.107

Notes: \*\*\* p < 0.001, \*\* p < 0.01, \* p < 0.05, + p < 0.1; logit coefficients displayed. KHB method. Source: MAFE-Senegal



collective cross-border activity is less sensitive to the maintenance of affective links afforded by in-person visits.

## **5.7 Discussion**

Despite a celebration of the border-subverting nature of transnational activities, research on the role of the state suggests that the crossing of both geographic (Waldinger 2008) and institutional (Van Meeteren 2012) borders by migrants is subject to state control. One of the most pertinent forms of control for these types of border crossings is legal status: migrants who do not possess a secure form of legal status will find it more difficult to come and go physically across the destination state's borders and may also find it challenging to access other institutions that require formal state recognition and may help support cross-border engagement.

The results of this study unambiguously support the territorial confinement hypothesis: Senegalese migrants with fully irregular or mixed statuses were significantly less likely to make short returns to the homeland. These insecure legal statuses thus impose a direct constraint on Senegalese migrants' physical mobility. In Waldinger's (2008) formulation, they experience a "territorial confinement" and are at the mercy of state immigration-control mechanisms for their ability to make trips back to the homeland. This finding is quite at odds with the portrayal of a globalized world in which movements are unfettered by borders, but is consistent with other research on globalization that sees some flows—capital, goods, and some kinds of workers—as freer than others—such as migrant labor (for the example of asymmetric flows in the NAFTA regime, see Massey et al. 2002).

The results of this study also support the hypothesis that migrants' transnational activities can be blocked by their lack of secure legal status and the exclusion from other formal institutions that ensues. Fully irregular status operated as a direct constraint on remitting, investing, and HTA participation for Senegalese migrants. It seems that this status may exclude these migrants from accessing other formal institutions that are, in some way, related to cross-border engagement. Lack of ability to open a bank account or apply for credit, both of which require "papers," might constrain migrants' transnational activities. While irregular status does not prevent Senegalese migrants from working, it certainly prevents them from working in the

formal labor market and probably relegates them to insecure and poorly remunerated employment; this precarity that accompanies exclusion from the formal sector and its guarantees might decrease the ability and motivation to participate in transnational activities. These findings seem to be at odds with other literature on transnationalism that argues that cross-border action can be the result of exclusion and discrimination felt by migrants at destination (Itzigsohn and Saucedo 2002; Sana 2005); in the case of Senegalese migrants, the structural exclusion that accompanies irregularity of legal status seems to outweigh the reactive impulse.

Indeed, the results of these models indicate that Senegalese migrants may depend in some ways on the accumulation of resources for successful transnational engagement, at least for the individual financial activities of remitting and investing. Migrants who report being employed are 46 percentage-points more likely to report remitting in a given year than migrants who are unemployed, while reporting work/search for a better life as the main motivation for having migrated is associated with a 14 percentage-point increase in the yearly probability of remitting. Migrants with good self-reported economic status are 6 percentage points more likely to own assets in Senegal, while those who report work or a better life as the motivation for their migration are 5.4 percentage points more likely to be investors.

This strategy of accumulation can be interpreted in light of the strong effects of short visits to the homeland and the affective ties that these visits foster. Making a visit to the homeland was associated with increased propensity to remit and invest: this form of mobility is thus of crucial importance in explaining these financial forms of non-mobile transnational activities. This is unsurprising given the assertions of the literature of physical co-presence, which has demonstrated that face-to-face interaction is crucial in forging and feeding social ties and interpersonal trust (Urry 2002), but this is important determinant of action at a distance has been ignored in studies of transnational activities.

The direct effects of affective ties and other links to the homeland are also clear in the models: having children, a spouse, or parents in Senegal are associated with individual non-mobile transnational activities, as is repeat migration. All of these predictors indicate that ongoing links to the homeland are of paramount importance in structuring transnational engagement among Senegalese migrants. These findings thus

reinforce the idea that building social status in Senegal in preparation for an eventual return is a principal motivation of Senegalese migrants (Riccio 2008; Kaag 2008; Kane 2011); Senegalese migrants may thus favor accumulation of resources as a way to finance their transnational engagement, perhaps even at the expense of pursuing integration in the destination society (Kaag 2008; Nieuwenhuyze 2008).

In addition to examining the direct effect of visits to the homeland on long-distance transnational activities, this study found an indirect, negative effect of irregular legal statuses on these non-mobile activities transmitted through the inability to circulate between destination and origin. Migrants who have irregular status thus face three kinds of legal constraints on their cross-border actions: a direct legal constraint on their physical mobility, limiting short returns to Senegal; a direct legal constraint on their formal institutional participation, limiting their remitting, investing, and HTA participation; and an indirect legal constraint on their remitting and investing through their inability to visit home and the concomitant curtailing of social ties. Previous studies of transnational activities, in neglecting the relationship between visits home and non-mobile transnational activities, have thus neglected an important mechanism for the constraint that legal status may have on cross-border action.

The results of this study have also shown that not all transnational activities are subject to the same legal and social determinants. While fully irregular legal status was negatively directly associated with all four transnational activities, there were important differences among the other predictors. Semi-irregular legal statuses had a strong negative association with short returns, indicating that mobility is closely related to security of legal status. In turn, short returns along with variables indicating ongoing social and affective ties to Senegal were important predictors of both remitting and investing, both individual financial decisions likely to be influenced by sentiment and trust. This strong positive association was translated into a negative indirect association with semi-irregular status for these two financial activities through the constraint on border crossing, showing them to be sensitive to legal limitations on physical mobility.

HTA participation, on the other hand, is a collective activity and, as such, seems to be less responsive to physical co-presence in Senegal and affective ties to the homeland. Indeed, if there is any evidence of reactive transnationalism (Itzigsohn and Saucedo 2002), it may be with participation in these associations,

as those migrants who do not speak the language of their destination are almost 6 percentage points more likely to report such participation. Legal exclusion does not motivate such reaction, but this variable this variable may not actually capture the full range of forms of participation in these associations as it only asks about financial contributions to them and not benefits from the social services to migrants in destination that such associations often provide. This study has thus shown that it is necessary to distinguish, in the Senegalese case, between affectively oriented and collective transnational activities, echoing Waldinger's (2008) assertion that transnational activities do not necessarily cluster together.

From a methodological perspective, the results of this study underline the importance of disaggregating traditional binary measures of legal status. For all of the transnational outcomes, there were differences between migrants with fully irregular status and those with mixed statuses that would have been erased by lumping them together as "undocumented." At the same time, migrants' legal status upon entry, as measured by having a visa, had no association with transnational activities. Irregularity is thus complex, as chapter 3 demonstrated, and this complexity needs to be taken into account when considering the constraints that this multifaceted legal reality places on migrants' actions.

## **5.8 Conclusion**

Modern nation-states place contradictory demands on migrant's cross-border activities. On the one hand, many destination-country governments have started to recognize the role that migrants can and do play in the development of their homelands and have put in place "co-development" schemes (Weil 2002; Kabbanji 2013) to leverage transnational activities for the benefit of development programs. On the other hand, states have erected increasingly restrictive immigration-control apparatuses that make it difficult to acquire secure legal status. This difficulty translates into a captured loyalty among legal migrants, who have invested heavily in their membership, and a physical territorial confinement of those migrants who lack regular status. This control apparatus, coupled with a dominant ideology of assimilation that often looks askance at foreign loyalties, thus implicitly limits the cross-border activities of both documented and undocumented migrants.

The research literature on transnational activities has not grappled with these contradictions. Research on transnationalism has debated the novelty and social configurations of cross-border activities, but most studies do not consider the role that legal status plays in promoting or constraining them. I suggest that territorial confinement, which results from lack of secure legal status produced by restrictive immigration-control apparatuses, not only directly constrains mobile transnational activities such as homeland visits but also indirectly reduces migrants' participation in non-mobile activities, such as remitting and investing. I hypothesize that the indirect relationship is mediated by short visits home, which nourish the affective social infrastructure that facilitates ongoing non-mobile, long-distance cross-border activities.

This chapter finds that legal status is an important predictor of transnational engagement, especially when the direct legal constraint on physical mobility is factored into other non-mobile forms of cross-border action. At the same time, the robustness of the social and affective infrastructure of most transnational activities indicates that legal status may constrain but does not completely determine cross-border action. While the state and formal institutions may demand "papers" for the crossing of some kinds of borders, migrants clearly find ways to circumvent these demands; this study showed that even migrants completely bereft of residence and work authorization have a non-zero probability of crossing the destination state's geographical border for a short visit to Senegal. At the same time, this chapter has shown the importance of taking legal status into account: transnational activities are subject to a number of legal constraints. This chapter has also shown that it is crucial to consider multiple kinds of statuses: an approach that collapsed fully and semi-irregular statuses would have obscured the robust negative association between fully irregular status and all kinds of transnational activities.

The results of this chapter also allow a re-examination of the concept of a Senegalese "mode of migration" that is centered around "transnational livelihoods" (Riccio 2001, 2008). Qualitative literature has suggested that Senegalese migrants engage in an explicitly transnational form of migration, with Mouride traders in Italy depicted as the most likely to live their lives in Senegal and in Europe simultaneously. The ability to circulate between destination and origin is of key importance in this strategy, as it allows migrants to conduct entrepreneurial business across borders. This study, however, found no effect of belonging to the Mouride brotherhood or of being self-employed in trading on the propensity of migrants to make short

visits to Senegal net of legal status, affective ties, and the model's other variables. Indeed, belonging to the Mouride brotherhood was negatively associated with owning assets in Senegal, and being self-employed in trading was negatively associated with both remitting and investing. Living in Italy was likewise not associated with a transnational livelihood, and moreover had a negative effect on investing. Thus a transnational lifestyle among Senegalese seems less associated with the cultural dispositions of certain religious and ethnic subgroups and more related to the interplay between the legal institutional structure that acts to constrain cross-border action and social infrastructure that drives these activities.

This study does lend credence, however, to the idea that the “homeland is the arena” (Kane 2011) in which social status matters for Senegalese migrants. There are strong effects of short visits, social ties, repeat migration, plans to return, and work-related motivation on non-mobile transnational activities. This shows that Senegalese migrants' cross-border engagement is largely motivated by a desire to return to Senegal eventually. A logic of accumulation at origin may thus dominate a logic of integration at destination (Nieuwenhuyze 2008); both of these logics, however, are blocked by lack of secure legal status: migrants without “papers” are both directly blocked from transnational participation via legal exclusion from border crossing, and indirectly blocked by physical caging in the destination and the concomitant withering of social ties. Legal status is thus of key importance in keeping open the door to the homeland.

Appendix B

## Chapter 6. Conclusion

This dissertation has examined the determinants and impacts of complex forms of irregular legal status among Senegalese migrants in Europe. It has sought to elucidate how *multiple contexts of reception* produce pathways of irregular legal statuses among Senegalese migrants in France, Italy, and Spain and how the resulting *complex pathways of irregular status* shape the economic integration of Senegalese migrants into their host societies as well as their ongoing participation in the development of their homeland.

This concluding chapter will briefly review the results of the preceding empirical chapters and will compare the findings with prior literature. I follow with a reflection on how the findings may contribute to theoretical progress in the study of irregular migration, migrant economic incorporation, and immigrant transnationalism. I then consider the implications of this research for policies toward immigration pursued by both receiving and sending states. Finally, I offer directions for future research.

### 6.1 Evolution of immigration-control policies in France, Italy, and Spain

Chapter 2 laid the historical foundations for this research by tracing the evolution of immigration policies and the mechanisms of external and internal control (Brochmann 1999) they define in the main European destinations of Senegalese migrants: France, Italy, and Spain. Immigration-control policies have played an important role in structuring the migration strategies and incorporation of Senegalese migrants in France, Italy, and Spain. In France, there has been an evolution from colonial-era political and personal “assimilation” of Senegalese to the French nation; to a post-independence preferential regime that put few restrictions on the ability of Senegalese to enter, reside, or work in France; to an alignment of the bilateral relationship with Senegal with the general immigration-control regime via the gradual erosion of the preferential regime. Senegalese in France thus had *de facto* regular status for much of the 1960s and 1970s in that they did not need explicit authorization to enter or reside in France and were able to take advantage of common *post facto* regularization procedures. Irregularity became more common among Senegalese as this preferential regime crumbled, and the massive participation of Senegalese and other Africans in the

*sans papiers* movement in the mid-1990s highlighted the extent to which changes in immigration-control legislation had created precarity in their legal statuses.

The evolution of immigration-control policies in Italy and Spain took a much different trajectory. Spanish and Italian apparatuses of immigration control are much more recent: neither had any national-level immigration policy with the normative status of legislation until the 1990s. Irregularity seems to have been a consistent component in contexts of reception in Italy and Spain, as their frequent and massive regularization programs demonstrate. Much of this irregularity seems to stem from the mismatch between restrictive immigration-control measures and structural demands for cheap, low-skilled labor (Finotelli and Sciortino 2009; Reyneri 2003; González-Enríquez 2009). Partly as a result of this mass irregularity, immigration-control policy in both countries has since developed in a restrictive fashion, marked by an overriding concern with border control along Mediterranean coastlines.

In tracing these differential evolutions, chapter 2 underlined that the legal status that migrants possess is a relational product (Sciortino 2004): interaction between a state's policies and a migrant's strategies creates different kinds of administrative statuses. Immigration policies and the control mechanisms they define have thus created legal parameters that define the legal pathways that migrants navigate.

## **6.2 Pathways into irregular legal status among Senegalese migrants in Europe**

Chapter 3 examined the pathways into irregular statuses among Senegalese migrants in Europe. Drawing on literature that argues for both multidimensional definitions of irregularity and recognizing the important role that socio-legal contexts play in setting the parameters of irregularity, the chapter hypothesized that context, measured by both destination and period, would structure both geographic and status flows into irregularity. The chapter also hypothesized that pathways of irregularity would be linked, and that forms of capital and links to host-country institutions would also be correlated with irregularity.

Retrospective life-history data from the MAFE-Senegal project was used to study the determinants of the pathways into irregularity of no-visa entry, overstaying, and befallen irregularity. Senegalese migrants going to Italy were the most likely to have entered without a visa, while overstaying was more prevalent in southern Europe than in France. These results thus showed that context plays a strong role in shaping no-



visa entry and visa overstay, pathways that occur close in time to the act of crossing a border. These pathways are likely to be the most responsive to variation over time and across destination of the socio-legal parameters of legal status since most of these parameters have increasingly converged on preventing irregular entry. These findings support research that views irregularity status as a “legal production” of immigration policies and mechanisms of control (De Genova 2002; Sciortino 2004).

These early pathways of irregularity are also responsive to migrants’ various forms of capital: migrants who have greater access to financial, human, and social capital are less likely to follow these paths into irregularity; migration-specific social capital in the form of prior no-visa entry facilitate current no-visa entry, but an increase in the number of previous trips protects against first-status irregularity. Migrant agency thus also structures the pathways that they take or manage to avoid, buttressing other findings in the literature that understand state structures as conditioning migrant action but not completely constraining them (Coutin 1998; Sciortino 2004; Bakewell 2010).

Changes in legal status, such as befallen irregularity, are more responsive to links to institutions in the destination country, such as the labor market, suggesting that migrants participate actively in avoiding pathways into irregularity as part of a project of integration. Employment is, somewhat paradoxically, related to decreased probability of loss of regular status, which suggests that the link between labor market participation and legal status depends crucially on whether or not the migrant works in the formal sector (Reyneri 2003).

In addition to findings on context and links to institutions, this study found that previous legal status was an important predictor of all of the pathways. This supports the emerging view in research on legal status that a static binary measure of legal status is not sufficient to capture the complexity of legal status categories and transitions over migrants’ life courses. This study thus contributes to the call for disaggregating legal status (Donato and Armenta 2011) and examining connections between different kinds of legal status.

### **6.3 Legal status, gender, and labor market incorporation of Senegalese migrants in France, Italy, and Spain**

Chapter 4 examined how immigration policy creates gendered channels of access to destination societies' labor markets. I hypothesized that the effect of legal status on economic incorporation would differ for women and men: women's legal statuses are more likely to be the product of dependency-inducing family reunification policies that disincentivize work (Boyd 1989; Kofman 1999), while men would have more options for labor-market access regardless of legal status (Kogan 2006). Women's labor-market participation would thus be structured by their legal status, with those women reunifying with spouses at a destination less likely to work upon arrival than autonomous women or men (Lesselier 2008). At the same time, I hypothesized that female reunifiers may also have an easier time making eventual transitions into the labor market (Kanaiaupuni 2000).

The results indicated that Senegalese women with configurations of legal status indicative of family reunification were more likely than women with other legal statuses to be economically inactive upon arrival, while there is little association between Senegalese men's legal status and their participation. This finding held across destination countries despite the differing configurations of legal status granted to reunified spouses: while mixed status among women was associated with higher inactivity in Spain and Italy, so was fully regular status in France. This is consonant with research that finds that reunified spouses tend to be less likely to be economically active (Kofman 1999). In the case of Spain and Italy these women face legal barriers to their participation as a result of waiting periods (Kofman 2004). Women in France, however, do not face such barriers, meaning that their legal situation is also indicative of economic dependency (Lesselier 2008). I also find, however, that family reunification does not preclude labor-market participation, as many of the women with family-reunification profiles eventually transition into economic activity. This finding echoes the observation that family migration may transform into a form of labor migration (Kofman 1999). It also supports the view that women migrants have a diversity of motivations for their migration, and may often strategically participate in an "associational" move for economic reasons (Kanaiaupuni 2000). In contrast to Senegalese women, male migrants with fully irregular status (NRP\_NWP) did not face any penalty in labor-market participation, employment, or the risk of transition to unemployment compared to migrants with fully regular status. The legal constraint of irregularity of legal

status on economic activity for Senegalese migrants in Europe thus seems to be weak, supporting views that immigrants to countries with labor-market structures that favor low-skilled labor and informality reduce the immigrant “employment penalty” (Kogan 2006), perhaps at the risk of funneling them into “bad jobs” (Fullin and Reyneri 2011).

#### **6.4 Legal status and transnational activities of Senegalese migrants in France, Italy, and Spain**

Chapter 5 considered the constraint that irregular legal status might impose on the cross-border activities of Senegalese migrants in their main contexts of reception. While the literature on transnationalism has often lauded the ability of migrants to subvert state authority via their cross-border activities, this chapter argued that state action needs to be brought back into the analysis of transnationalism. It proposed that state action works most directly as territorial confinement (Waldinger 2008): those migrants who lack secure legal status are unable to cross physical borders at their will. The chapter also hypothesized that lack of regular legal status would impede migrants’ ability to cross various institutional boundaries that would block their non-mobile transnational activities (Portes and Rumbaut 2006; Van Meeteren 2012). The chapter sought to create a link between mobile and non-mobile transnational activities by drawing on literature that argues for the importance of physical co-presence in building and sustaining affective and trusting relationships (Urry 2002) and thus hypothesized that physical visits to the homeland would facilitate non-mobile transnational activities. Finally, the chapter hypothesized an indirect constraint of irregular legal statuses on non-mobile activities operating through territorial confinement: migrants without the ability to make visits to the homeland are less likely to be able to maintain social ties that depend on occasional physical co-presence, and are thus less likely to participate in non-mobile transnational activities that depend on active social ties. The chapter used the MAFE data and its information on Senegalese migrants’ transnational activities directed towards their homeland in the form of short returns, remittances, investments, and participation in hometown associations (HTAs).

The results of this chapter unambiguously supported the territorial confinement hypothesis: Senegalese migrants with fully irregular or mixed statuses were significantly less likely to make short returns to the homeland. This finding supports Waldinger’s (2008) contention that nation states play an important role in

structuring and constraining migrants' cross-border activities. The results of this chapter also supported the hypothesis that migrants' transnational activities can be blocked by their lack of secure legal status and the exclusion from other formal institutions that ensues. Fully irregular status operated as a direct constraint on remitting, investing, and HTA participation for Senegalese migrants. While the exact mechanism of this juridical constraint on non-mobile activities remains to be explored, the finding of structural exclusion is in line with previous findings (Portes and Rumbaut 2006; Van Meeteren 2012).

This chapter also offered evidence for a positive relationship between visits to the homeland and non-mobile transnational activities. This is a relationship that the literature on transnationalism often implies (Smith 2006; Portes and Zhou 2012) but rarely directly examines. This form of mobility, along with other affective links, is thus of crucial importance in explaining these financial forms of non-mobile transnational activities. The link between physical mobility and non-mobile activities provides the theoretical lynchpin for the hypothesis of an indirect, negative effect of irregular legal statuses on non-mobile transnational activities. This indirect effect was evident for remitting and investing, meaning that their non-mobile actions were indirectly caged by the irregular status that led to their territorial confinement (Waldinger 2008). The juridical constraint was thus transmitted through the inability to circulate between destination and origin.

Finally, the chapter offered further evidence that transnational activities, while often taken together as an object of analysis, have different determinants and do not necessarily cluster together (Waldinger 2008). While remitting and investing are part of a household strategy of migration and are responsive to short visits and other affective links, HTA participation, on the other hand, is a collective activity and, as such, seems to be less responsive to physical co-presence in Senegal and affective ties to the homeland. Migrants who have irregular status thus face three kinds of legal constraints on their cross-border actions: a direct legal constraint on their physical mobility, limiting short returns to Senegal; a direct legal constraint on their formal institutional participation, limiting their remitting, investing, and HTA participation; and an indirect legal constraint on their remitting and investing through their inability to visit home and the concomitant curtailing of social ties.

These chapters have demonstrated that it is crucially important to disaggregate binary measures of legal status. Relying on a documented vs. undocumented dichotomy would have obscured important variation in pathways into different forms of irregularity and in the impacts of irregular statuses on economic incorporation and transnational activities. These results also demonstrate that sensitivity to changes in legal status over time is crucial for modeling the determinants and consequences of different forms of legal status. Many studies do not incorporate time-varying measures of legal status and thus miss this important source of variation. At the same time, these chapters have drawn on the rich information available in the MAFE-Senegal dataset to complement the analyses of legal status with other contextual and individual predictors of action. The results indicate that lack of secure legal status can serve as important legal constraint on the actions of migrants (Sciortino 2004) and contribute to the growing research literature on legal status as an important axis of stratification in modern societies (Massey 2007; Menjívar 2010). At the same time, the results also demonstrate that legal status constrains but does not completely determine migrants' actions (Van Meeteren 2012). This is an important point of articulation with the body of research that considers the tension between structure and agency in migration research (Goss and Lindquist 1995; Bakewell 2010). While this thesis cannot attempt to offer a resolution to this tension that marks most fields of social inquiry, the results nonetheless support the view that social action may be structurally conditioned but not totally structurally determined (Bakewell 2010).

## **6.5 Contributions to theoretical progress**

This section will consider the contributions that this dissertation has made to theoretical progress in the study of irregular migration, migrant economic incorporation, and immigrant transnationalism. "Theory" here is defined as the definition and systematic linking of concepts that reflects accumulated knowledge and leads to new research in a given field of inquiry. As Portes (1997) argues, the field of migration research has both been blessed and limited by a reliance on the accumulation of empirical data and the avoidance of grand theorizing. The rich array of source material at multiple levels of analysis generated by a variety of methodologies has helped build the study of migration into a flexible and expansive enterprise, while the diversity of cases has helped the field avoid overly grandiose single and encompassing theories of migration.

At the same time, Portes (1997) warns of the risk of empirical results accumulating without a systematic theoretical guide to future research or to policy-making. Some of the lack of theoretical advancement in migration research has come from a mishandling of the fundamental building blocks of theory, such as concepts, empirical generalizations, typologies, and theoretical propositions. For Portes, a proper theory must contain interlinked and falsifiable theoretical propositions that specify relationships between concepts. Furthermore, theory must “travel”; that is, it must be able to provide insight into social realities under conditions which may differ from those that hold for the case at hand. In this way, theory can leverage the empirical richness of empirical case studies to guide the development of new insights.

While this dissertation has drawn on data on Senegalese migrants in Europe for its empirical analyses, it is my hope that it can also offer some modest contributions to theoretical progress. It mainly does so through the refinement of some basic building blocks of theory. I discuss my contributions to concepts, typologies, and the formulation of some limited theoretical propositions that advance theoretical understanding of the production and consequences of migrant irregularity.

### **6.5.1 *Conceptual contributions***

Concepts privilege certain parts of empirical reality as worthy of investigation and thus constitute the fundamental building block of theory. This dissertation has privileged the concepts of “legal status” and “irregularity.” As chapter 3 argues, there is a considerable conceptual muddle in the study of legal status and irregularity. This muddle stems, in part, from a lack of clarity in the unit to which these concepts refer. The imprecision of the term “irregular migration,” for example, arises from the lack of identification of the unit of analysis of which irregularity is a property: migrants can have irregular legal status, but entire flows or stocks of migrants are unlikely to be irregular. Furthermore, the rules of correspondence linking this concept to its empirical indicators are often unspecified, leading to a multitude of sometimes contradictory uses of the concepts. For example, “irregularity” often gets conflated with “unauthorized border crossing” when, in reality, this form of entry constitutes one many ways in which migrants can become irregular.

This dissertation contributes to the refinement of the concepts of legal status and irregularity by proposing theoretical and empirical operationalizations that clarify both the unit to which the concepts refer and their

rules of correspondence. By drawing on emerging literature on the multidimensionality of legal status, I was able to define irregularity at the theoretical level in terms of the lack of one or more authorizations in multiple legal domains at different points in time. This is a nominal theoretical definition that was useful for this dissertation but did not aspire to capture the “real” essence of irregularity. At the same time, it clarified the relationship between irregularity and the various legal domains of immigration-control mechanisms and the time-varying nature of different authorizations over a migrant’s stay in a destination. This nominal theoretical definition led to an empirical operationalization of the different pathways into irregular status: no-visa entry, overstaying, and befallen irregularity reflect concrete combinations of different statuses in different legal domains. This approach allowed me to overcome the conceptual muddle surrounding irregularity, and has helped to put this concept on firmer theoretical and empirical ground.

This dissertation also made a conceptual contribution to the field of immigrant transnationalism in its distinction between “mobile” and “non-mobile” transnational activities. The literature on immigrant transnationalism has defined its object of study as the ongoing connections between migrants living abroad and their home communities, often operationalized in the form of discrete activities that take place across national borders. While the literature has differentiated activities by their field of action—social, cultural, economic, or political—it has often ignored the physical and geographic specificity of such actions. Some actions labeled as transnational do not necessarily directly involve the physical movement through space, such as remittances, while others, such as homeland visits, do necessarily involve such movement. I thus proposed a nominal theoretical definition that distinguishes these types of activity. While this nominalist definition leaves the door open to other conceptualizations, I believe that it makes an important contribution to a research field that has tended to ignore physical mobility, physical co-presence, and legal status.

A final conceptual contribution comes from chapter 4’s examination of migrant economic incorporation, which proposes a typology of configurations of legal statuses indicating different types of migrants. This typology was necessary in order to highlight not only the gendered implications of immigration policy, but also the different ways in which these gendered policies get translated into concrete configurations of work and residence authorizations. Without this typology, it would be impossible to understand that reunified

migrants in France have a different set of legal rights than reunified migrants in Spain or Italy. Thus the meaning of configurations of legal statuses varies across countries with different immigration-control regimes, and the typology proposed makes it possible to compare similar types of migrants in different legal contexts. As Portes (1997) makes clear, these kinds of typologies are important theoretical building blocks in migration research.

### **6.5.2 Construction of theoretical propositions**

In addition to these conceptual contributions, I hope that this dissertation has made some contributions to the construction of theoretical propositions. Portes (1997) argues that theoretical propositions include a universal quantifier specifying the scope of its prediction and a statement of the relationship between concepts to be explained and the factors that lead to it. Theoretical propositions thus differ from empirical generalizations, which simply state facts about the values taken by a specific variable.

Typologies can enter into theoretical propositions in the form of interaction effects, which is essentially the analytic strategy adopted in chapter 4. The theoretical proposition is that legal status interacts with gender to define different paths of economic incorporation for male and female migrants. The results support this theoretical proposition of an interaction between gendered immigration policies, the legal statuses they produce, and migrants' economic outcomes. This allows for the theoretical advancement of research on immigrant economic incorporation by specifying an important condition—gender—by which the relationship between legal status and labor-market participation varies. While previous research has argued for an increased visibility of gender in migration research, the typology linking legal status to immigration-control regimes allowed a finer-grained prediction of the effects of different configurations of residence and work authorizations for men and women.

Chapter 5 made theoretical contributions to the study of immigrant transnationalism through interlinked theoretical propositions. The conceptualization of mobile and non-mobile transnational activities was useful in the subsequent formulation of theoretical propositions that these two kinds of cross-border engagement. This system of theoretical propositions identified short visits to the homeland as a key mediator in the relationship between legal status and non-mobile activities. Without a system of interlinked



theoretical propositions, it would not have been possible to grasp the connections between irregular legal status, lack of physical mobility, and decreased non-mobile transnational activities.

While it would be presumptuous to offer a comprehensive theory of irregular migration, migrant economic incorporation, and immigrant transnationalism, it may be a useful exercise to conclude this section with an initial attempt at a series of interlinked theoretical propositions that aims to synthesize some of the theoretical contributions of the dissertation. If nothing else, I hope that it serves as a springboard for future theoretical refinement of these research fields.

For every flow of immigrants formerly dominated by male labor migrants:

1. The more negative the context of reception becomes, the greater the likelihood that governments will impose restrictive immigration-control policies;
2. The more restrictive the immigration-control policies, the more pathways into irregular status will appear both directly as the result of border interdiction and indirectly as the result of confinement;
3. The more pathways into irregularity appear, the more migrants will bring resources to bear to avoid or take advantage of them for their goals;
4. The more restrictive the immigration-control policies, the higher the likelihood that remaining legal channels of entry will be gendered;
5. The higher the likelihood that legal channels of entry will be gendered, the greater the probability that women will have distinct configurations of legal status that promote dependency;
6. The greater the probability that women will have distinct configurations of legal status that promote dependency, the higher the likelihood that they will be economically inactive upon arrival and active at some point in the future;
7. The more pathways into irregularity appear, the higher the likelihood that migrants will lack the legal authorization to cross the country's borders;
8. The higher the likelihood that migrants will lack the legal authorization to cross the country's borders, the fewer the opportunities migrants will have to visit the homeland;
9. The fewer the opportunities migrants have to visit the homeland, the less likely it becomes that they maintain affective ties with their social-status reference group at home;
10. The less likely it becomes that migrants maintain affective ties at home, the less likely it is that they continue to participate in non-mobile transnational activities.

## **6.6 Implications for policy**

### **6.6.1 *The unintended consequences of immigration policy***

This section will consider the implications of this research for policies toward immigration pursued by both receiving and sending states, including possible future cooperative arrangements between them. The results of this dissertation point to the operation of unintended consequences of immigration policies pursued by the receiving states of France, Italy, and Spain. First introduced to sociology by Merton (1936), the idea

that social action such as immigration policy can have unanticipated effects has been a cornerstone of analyses of American immigration policy (Portes 2000; Massey, Durand, and Malone 2002). These analyses have shown, for example, that efforts to stem undocumented migration to the US by securing the southern border have not only failed to slow undocumented border crossings but also have contributed to a growing stock of undocumented migrants living in the US by decreasing their probability of return (Massey et al. 2002). Similar unintended consequences are evident for Senegalese migrants in Europe: when France closed its borders to labor migration in the 1970s and stiffened the bilateral agreement regulating Senegalese migration, Senegalese responded in part by settling in France reunifying with wives and children, thus putting an end to a previously circular system (Timera 1997).

This dissertation traced in depth the evolution of these immigration policies and sought to understand how policies that sought to limit irregular migration actually produced new pathways into irregular status. I analyzed these pathways in quantitative terms and found that irregularity was more common in destinations and periods where restrictive controls were put in place. Moreover, these analyses showed that migrants bring a variety of resources to bear in circumventing control strategies. Policies thus produced new forms of irregularity instead of limiting irregular migration.

Additional empirical results indicate how these unintended consequences of immigration policy influence the lives and actions of Senegalese migrants in the main receiving countries in Europe. Irregular legal statuses largely fail to accomplish their intended goal of preventing migrants from working. In addition, legal statuses operate more strongly on women's economic incorporation, with legal status configurations associated with family reunification increasing women's economic and administrative dependency via reduced labor-market participation. Legal status thus renders a vulnerable population more vulnerable. While results show that restrictive immigration policies do not necessarily stop migrants from entering, residing, and working irregularly in France, Italy, and Spain, chapter 5 shows that these statuses do act as a constraint on their ongoing participation in their homeland.

Lacking regular status prevents Senegalese migrants from returning periodically to Senegal and thus also indirectly negatively affects their ability to participate in financial, non-mobile transnational activities

because the lack of occasional physical co-presence causes social ties to wither. The lack of ability to circulate between destinations and the homeland effectively short-circuits the vaunted Senegalese “transnational livelihoods” (Riccio 2008; Kaag 2008). Restrictive immigration policy has thus transformed migrants initially focused on circulation and eventual return into irregular long-term settlers who risk exclusion and marginalization.

This marginalization is clearly not in the best interests of the destination society, the homeland, or the migrants themselves. The destination societies spend huge sums of money guarding borders in a time of severe fiscal austerity, yet they are unable to eliminate or reduce irregular migration; these draconian policies occur in the context of an aging population that actually needs migrant labor. These restrictive policies do, however, succeed in creating a marginalized and exploited population with few social rights who are yet unable or unwilling to return to the homeland prior to accomplishing their objectives.

The inability of migrants to circulate between destination and origin also has negative effects on their home communities. Portes (2009) argues that the development potential of migration depends, in part, on the composition and duration of migrant flows. Cyclical flows of manual laborers have the potential to have a positive impact on development by overcoming inefficiencies in sending countries’ credit and product markets, transferring skills and resources, strengthening local productive structures, and preserving the demographic integrity of sending regions. This positive impact hinges on the existence of a vital community back home to remit to and develop, and cyclical flows assure that depopulation will not drain a community’s vitality. In contrast, permanent flows of manual labor lead to the depopulation of sending areas and the weakening of productive infrastructures. As the sending community empties out to be reunited with permanently settled migrants, remittances and local productivity decline. The trend towards increasingly restrictive immigration policies that confine irregular migrants to the destination territory undercuts the cyclicity that Portes sees as vital to the positive developmental impact of manual labor migration.

### **6.6.2 *Co-development, veiled restriction, and the African “capacity crisis”***

The results of this dissertation also suggest the failure of cooperative immigration policies undertaken in concert by governments of sending and receiving countries. This short-circuiting of the developmental potential of Senegalese migrants is at odds with recent evolutions in Europe to encourage and channel migrants’ transnational activities for the effective development of their homelands. Such “co-development” programs (Weil 2002; Grillo and Riccio 2004) have become de rigeur in most European countries’ official migration-management strategies (see Chapter 2 for descriptions of such programs in the most recent bilateral treaty between France and Senegal and as part of Spain’s “Plan África”). These programs have also become a part of European countries’ official bilateral cooperation with African governments, thereby implicating sending-country institutions in their efforts. There thus seems to be a contradiction between restrictive immigration-control policies that constrain economic integration and the physical and symbolic border-crossing of transnational activities and the co-development policies that leverage migrants’ economic success and ongoing connections to their homelands.

At the same time, it is not at all clear that co-development policies can be separated from policies that seek to restrict migration. More importantly, as Kabbanji (2013) points out, most governmental organizations promoting co-development draw on a discourse of “managing” migration in the face of rising flows of clandestine Africans, with control of irregular migration seen by France, Italy, and Spain as a precondition for leveraging migrants’ private initiatives for the productive development of their origin communities. This technical approach conceals the fact that co-development strategies have focused on controlling African migrants’ transnational activities and promoting the return of unwanted migrants (Kabbanji 2013). Thus border control and co-development go hand in hand with a two-pronged strategy of preventing migrants from entering destination countries and repatriating those that already live there, mostly those in irregular status.

Research has also questioned the impact of cooperative migration-management efforts and co-development policies. Most co-development programs involve relatively small sums, benefit a limited number of people, and have not yet been thoroughly evaluated for their effectiveness (Kabbanji 2013). Bilateral agreements to facilitate legal migration are also constrained by the extremely limited numbers involved and the

constraints faced by the participating migrants; in the case of the bilateral labor program for Spain and Senegal, very few migrants were able to participate for more than one year because renewing permits is the responsibility of the employer (Kabbanji 2013). These programs also generally fail in their goal of attracting the voluntary return of migrants in the quest for “brain gain”: quantitative research from the MAFE project demonstrates that Senegalese migrants’ probability of long-term return to Senegal has declined as economic uncertainty in Senegal and legal precarity in Europe has increased (Schoumaker et al. 2013).

Part of the lack of effectiveness of cooperative and co-development programs could be due to the lack of legitimacy of sending-country governments in the eyes of migrants. The Senegalese government, while it tried to stem emigration in the 1960s through the imposition of exit visas (Kane 2011), has attempted to position itself over the last 10 years to be a more effective partner for migrant-led development. Nonetheless, Kabbanji (2013) reports that the government of Senegal, like other sending-country governments pursuing cooperative migration management, is often perceived to be facilitators of the goals of restriction and return. Senegal established the *Ministère des Sénégalais de l’Extérieur* (Ministry of Overseas Senegalese) in 2003 (Kabbanji 2013) with the goals of managing migration flows, guaranteeing the social and juridical protection of overseas Senegalese, and “promoting” overseas Senegalese. In reality, this ministry has drawn on discourses of the sharp uptick in illegal migration of Senegalese to Europe to step up its cooperative migration-management efforts. The Senegalese government agreed to high-profile and controversial involuntary returns of illegal migrants from the Canary Islands in 2006 (Gagrielli 2008), and the Ministry of Youth has participated in “fight” against illegal migration and in the management of the oft-criticized bilateral labor-immigration agreement with Spain (Kabbanji 2013). It thus seems that the government of Senegal, despite professions to protect migrants abroad and support their investments in Senegal, has fallen prey to the logic of “migration management” preached by EU governments.

This collusion with restrictive European policies probably only adds to the pre-existing lack of legitimacy of the Senegalese government in the eyes of many Senegalese, both migrants and non-migrants alike. Recent results from the Afrobarometer project show that public trust in all branches of the government has been declining in recent years despite a high level of support for democracy (Afrobarometer 2009). This

“capacity crisis” confronts many African states and is a fundamental factor in explaining their lack of development (Englebert 2002). This lack of capacity among African states arises, in part, because of an incongruence between pre- and post-colonial political structures, and results in a neo-patrimonial ruling system, the irrelevance of the rule of law, the evaporation of trust in institutions, and increased corruption (Englebert 2000). This kind of neo-patrimonial system can also lead to a situation where communitarian association founded on the social capital inherent in extended families and ethnic networks can take the place of weak or absent coordinating institutions (Portes and Vickstrom 2011). While societies founded on this sort of macrosocial organization can function, the mechanical solidarity that substitutes for coordinating institutions can lead to a fragmentation of social order (Portes and Vickstrom 2011).

This capacity crisis has a number of implications for the migration policies pursued by sending countries. Senegal is among those states that have experienced a lack of legitimacy and a capacity crises resulting from the spread of a neo-patrimonial system (Englebert 2002). Adepoju (2004) argues that this kind of lack of capacity among African states has been a fundamental driver of emigration from sub-Saharan Africa. At the same time, the social capital that fills the institutional vacuum also underlies the perpetuation of international migration (Massey 1993) and the widespread adoption of transnational household strategies of risk diversification and accumulation (Stark 1991). The overall failure of African states to acquire legitimacy and invest in human development has Africans to build their own institutions for their personal and collective goals that operate on social capital.

The findings of this dissertation support the interpretation that social capital is one of the main determinants of migrants’ continuing participation in the development of their origin communities: affective ties and the physical co-presence that nourishes them were strong predictors of migrants’ remittances to and investments in Senegal. The main obstacle that they face in this endeavor is legal precarity in the destination countries, which undermines these social connections. This is the fundamental facet of the immigration policies of destination states, and sending-state policies do little to change the fundamental juridical exclusion that many migrants face.

It is thus not surprising that Senegalese migrants would be wary of their state's institutional efforts to leverage their development efforts, as it was the fundamental institutional failure of the state that led to and sustained the very act of migration. Coupled with the veiled restriction and involuntary return promoted by the cooperative migration-management policies of receiving states, there is ample reason to be skeptical about the prospects for a positive effect of co-managed migration on either migrants or their sending communities.

It is ultimately the migrants themselves and their home communities that bear the brunt of this incoherence. Effective immigration policy in Europe and Senegal alike would be best served by aligning their goals to support overall human development and capacity-building and creating opportunities for economic participation and circulation between destination and the homeland.

## **6.7 Directions for future research**

The findings presented in the dissertation are suggestive of important variations in the legal contexts of reception facing Senegalese migrants, but future research should extend this work to include a greater range of contextual variables. My reliance on destination dummy variables to indicate contexts of reception allows the estimation of country-level fixed effects and thus controls for an important source of variation, but this strategy does not open the black box of these contexts of reception to examine the mechanisms that may be producing these effects. A potential approach would be to integrate time-varying national-level statistics that are readily available, such as unemployment rates, GDPs, and estimates of employment regulation and economic informality. These indicators would allow a more refined understanding of the role that host-country labor markets play in the context of reception. Statistics on stocks and flows of Senegalese migrants at different points in time, to the extent that they exist, could be used to capture some of the characteristics of the existing ethnic community.

It is in the realm of the policies of the receiving government that the possibility of contextual indicators is simultaneously most compelling and fraught. This dissertation has combined interpretation of the historical evolution of immigration policies with basic indicators of destination and period in quantitative models to capture the stances of receiving governments, thus introducing a fair amount of arbitrariness into the

interpretation of results. Other researchers working on the MAFE project have started to formalize the measurement of the governmental stance facing Senegalese immigrants: Mezger and González-Ferrer (2013) assembled all relevant immigration texts in the three European destination countries and attempted to quantify the restrictiveness of policies over time on a number of policy dimensions (irregular entry/residence policy, family reunification policy, etc.). Their resultant Immigration Policy (ImPol) index thus purports to capture variation over time in governmental stances towards Senegalese immigrants. In a brief application, they find that leniency in policy towards irregular migration is associated with an increase in the odds of migrating to France, but that Senegalese migrants have lower odds of migrating to France in years when work-related entry policy was more lenient (Mezger and González-Ferrer 2013). Inclusion of a modified version of the ImPol index in future refinements of my research will help get more traction on contextual variation in governmental stances towards Senegalese immigrants.

Future refinements of this research will also draw on the expanded MAFE dataset. The MAFE project was designed as a comparative study to generate knowledge on three different flows of migrants between Africa and Europe, and thus includes data on Congolese migrants in Belgium and the United Kingdom and Ghanaian migrants in the Netherlands and the United Kingdom. I would use these additional datasets to untangle how both contexts of reception and exit shape trajectories of legal status of African migrants in Europe. This is especially important given the different determinants of migration that have shaped these migration flows: while Senegalese migrants do not usually claim asylum, Congolese migrants have, in many cases, fled civil war, making them more likely to migrate through the asylum system; Ghanaian migrants, on the other hand, are much more likely to migrate for studies. These contexts of exit may be instrumental in shaping both migrants' trajectories of legal status as well as the responses of migration policy at destination (e.g., through increasingly restrictive asylum policies). Additional comparative research—which Portes (1997) underlines as crucial for theoretical progress in immigration research—would compare African migration to Europe with Latin American migration to North America.



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