# Governing Irregular Migration

## Bordering Culture, Labour, and Security in Spain

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## Studying the Governing of Irregular Migration

Ours is an era of contradictions. We live in an interconnected, globalized world that has fostered nationalist movements promoting a return to traditional notions of community and identity. We live in a time of heightened mobility, free trade, and open borders that has seen the proliferation of fences and walls. Nowhere is this paradox more apparent than in the European Union (EU), a political entity founded on the complementary projects of creating an internal borderless space of circulation and of strengthening external borders. Organized under the EU area of "Justice, Freedom and Security," European border cooperation has contributed to turning the Mediterranean Sea into the deadliest border in the world. Hundreds of thousands of irregular migrants and asylum seekers, unable to enter Europe through other means, have put their lives at risk and embarked on a perilous journey across the Mediterranean since 2000, and more than twenty thousand of them have perished (Brian and Laczko 2014). As a result of heightened border controls in the western Mediterranean region and an increase in violence in Syria, Iraq, Somalia, and Eritrea, media attention now centres on Greece, Italy, and the Eastern European countries. Until recently, however, the political and media focus was on Spain.[1]

When *El País,* the most important Spanish daily paper, recently promoted on its front page a series of stories on "the refugee crisis from the area where it all started: the border between Spain and Morocco" (Doltz and Domínguez 2016), it was not exaggerating. Between 2000 and 2010, Spain ranked second in the world, behind the United States, as the country

with the highest level of annual net immigration (United Nations 2013), and Spanish-Moroccan border cooperation is now regularly presented as "good practice" by EU officials. The 1992 Spanish-Moroccan readmission agreement, the bilateral patrols monitoring the waters, and the strict enforcement of migration control by Moroccan gendarmes as a diplomatic trade-off in its relations with Spain are a source of inspiration for those trying to prevent migrants and refugees from crossing through Turkey. The European commissioner for Migration, Home Affairs and Citizenship, Dimitri Avramopoulos, has even declared recently that Spain's infamous practice of expelling migrants at the border fences separating Morocco from the Spanish enclaves of Ceuta and Melilla in complete disregard for their right to claim asylum – a practice condemned in 2015 by the Council of Europe's Human Rights Commission – is in fact consistent with the European Return Directive (*Directive 2008/115/EC*). What else could he have said, as this strategy is now being implemented in Greece and throughout Eastern Europe?

While it is clear that "Spain's Moroccan fences set an example," as Reuters (2016) recently wrote, the importance of the Spanish case extends beyond its border walls and externalization of migration control. Indeed, the model of immigration governance in Spain shares many other similarities with those developed in Italy and Greece, where irregular migration is also significant, and is representative of the type of immigration regulation that is being implemented in Southern European countries (Calavita 2005; Finotelli and Sciortino 2009). As a former colonial power, Spain's relationship with immigrants from its former colonies in Latin America and protectorate in Morocco is similar to those developed in other countries where immigration is influenced by a history of colonialism, such as France or the United Kingdom, and this despite obvious differences in the duration, intensity, and content of these colonial projects. In this book, I look at Spanish immigration governance in its own right, but I do so precisely because of the significance of the Spanish case for our understanding of security practices at the Mediterranean borders, the role of colonialism in shaping cultural and racial preference for certain groups of immigrants, and the relationship between precarious work and precarious immigration status. The case is relevant for the similarities it shares with other regions but also for its differences. Indeed, in the European context, Spanish

immigration governance has often been seen as particular, if not peculiar, and at odds with the policies of the country's northern neighbours. These are exaggerations, but it is true that Spanish immigration policies are somewhat puzzling, and it is in order to make sense of them and to show their underlying logics that this book was written.

For instance, Spanish policies regarding immigrants residing in the country irregularly may appear incoherent at first. On the one hand, Spain once had a reputation of having lax and generous immigration policies. Indeed, since 1986, extraordinary programs for the mass regularization of migrants living in Spain without authorization have played an important part in the regulation of irregular migration (Arango and Finotelli 2009; Maas 2010). On the other hand, Spain is known for its role in policing one of the southern borders of what some analysts call "Fortress Europe." Indeed, the populist, anti-immigrant rhetoric used by the conservative Popular Party (Partido Popular, or PP) in the early 2000s set the tone for a decade of restrictive immigration policies and strict border control. This restrictive dimension seems to be gaining ground. For instance, although Socialist José Luis Rodríguez Zapatero's first government (2004–08) enacted a very important mass regularization process and developed institutions to facilitate the integration of immigrants, it also deported more migrants than ever before and dramatically tightened control over the southern borders (Ministerio del Interior 2006, 2008, 2009, 2011, 2012). During the 2008 election campaign, the PP promised to end extraordinary mass regularization (Partido Popular 2008), and in the 2011 election, which it won, it promised to forbid the ordinary, case-by-case individual regularization of migrants based on a demonstration of social integration. While the government of Mariano Rajoy did not, in the end, limit this last means of regularization, in 2012 it cancelled the legal provision granting irregular migrants living in Spain access to healthcare services (*RD-L 16/2012*).

Not surprisingly, this more restrictive approach has come hand in hand with more repressive techniques to address the issue of irregular migration. As in other parts of the world, the detention and deportation of migrants have become common means of governing irregular migration (Pratt 2005; Inda 2006; Walters 2010; Bosworth 2014). In addition to mass regularization, border control, detention, and deportation, the strategy of governing irregular migration at a distance has gained popularity since the mid-2000s.

It involves a set of delocalized techniques that aim to pre-emptively stop irregular migrants before they reach Spanish territory, or to force third-country governments to provide protection to those who are asylum seekers. This upstream control takes the form of joint sea patrols, visa regimes, and migration regulation agreements with third countries. This extraterritorialization of migration control – responding in great part to pressure from other EU members – has changed the regional dynamic as countries like Morocco, Algeria, and Mauritania increasingly collaborate with Spain and the EU to prevent irregular migration to Spain.

At first sight, it appears that there is a clear evolution towards ever more repressive policies, a tendency that echoes the broader European trend in immigration and border management. The policy process is not at all straightforward, however, and repressive and progressive strategies continue to coexist. Indeed, these measures are often used together in a seemingly contradictory and yet complementary fashion. For instance, in 2005, the same Socialist government that regularized more than 570,000 migrant workers (Arango and Finotelli 2009) also developed integration policies, reactivated the Malaga Agreement allowing Spain to deport sub-Saharan African migrants to Morocco, pledged to build highly securitized border fences at the enclaves of Ceuta and Melilla, and created several joint maritime border patrols with Morocco, Mauritania, Senegal, Cape Verde, and Frontex[2] to surveil the territorial waters of these countries (Blanchard and Wender 2007; Ferrer-Gallardo 2008; García Andrade 2010; Moffette 2010). Therefore, the widely held image of the 2004–08 Socialist government rule as a time of implementation of integration policies and "labouralization" of migration does not tell the whole story. Similarly, since the right-wing PP has been so keen to denounce the use of mass regularization programs as a solution to the presence of unauthorized immigrants, one might reasonably assume that party politics are a key determinant of policy choices, yet the PP has also relied on mass regularizations on three occasions – in 1996, 2000, and 2001 – making it the party that has used this policy tool most often. It was also under a PP government in 2000 that universal health care was made available to all immigrants, regardless of their administrative status.

Since the early 1980s, regardless of which political party has been in office, government officials have relied on a combination of repressive and

more progressive policies – that is, while the political ideology of the ruling party certainly affects policy choices, the latter cannot be deduced from the former. Similarly, while the European immigration and border agenda has had a considerable impact on the policies implemented in Spain, EU politics alone cannot explain the multiple shifts and turns of Spanish immigration policy. Given that political ideology and European pressure cannot adequately explain the choice of policy tools, how can we account for the prevalence of some strategies for governing irregular migration? And given the complexity of the elaboration, implementation, and contestation of immigration policies, how can we make sense of the different, often contradictory, logics and practices that have governed migration in Spain over time?

Mobilizing critical scholarship on governmentality, policy, borders, immigration, security, and race, this book argues that three complementary and intersecting sets of logics and practices have informed the problematization of irregular migration as an object of knowledge and government in Spain since the 1980s. While some periods, parties, and actors rely more on one dimension than on others, they are always articulated together. *Culturalization* refers to a set of logics and practices intimately tied to the history of Spanish colonialism and the governing of migrants as cultural subjects. *Labouralization* refers to a set of logics and practices that attempt to steer labour migration flows and frame irregular migrants as workers who contribute to the national labour market. *Securitization* refers to a set of logics and practices focused on the defence of territorial sovereignty, blocking all migration routes available to irregular migrants, and framing migrants as potential threats. The organization of heterogeneous practices into these three broad categories acts as a heuristic device, bringing some order to the complex assemblage of people, objects, legal devices, and practices that form the regime. I trace the ways that culturalization, labouralization, and securitization work together in complementary and contradictory ways and create a practical regime of migration governance, based on a long probationary period, during which irregular migrants who reside in Spain can be scrutinized and policed. Ultimately, I posit the existence in Spain of a regime governing immigration through probation resulting from the rescaling of bordering practices across space and time, the deployment of a space of legally produced liminality in which irregular

migrants find themselves, and the use of conditionality and discretion in the assessment of desirability.

## Studying the Problematizations of Irregular Migration

Drawing from the literature in governmentality studies and critical policy analysis (Rose and Miller 1992; Shore and Wright 1997, 2011; Gale 1999, 2001; Rose 1999; Boswell 2009; Bacchi 2012; Walters 2015), the argument I develop in this book is based on the premise that governmental practices are problem-oriented, and that policy problems are themselves informed by these practices. Rather than regard irregular migration as a pre-existing problem waiting to be "discovered" by policymakers, I consider how it became a policy problem in need of a solution. I trace the heterogeneous elements that contributed to the construction of irregular migration as a problem requiring governmental intervention. The objective of this approach is "to reconstruct the problematizations to which programmes, strategies, tactics posed themselves as a solution," considering that "if policies, arguments, analyses and prescriptions purport to provide answers, they do so in relation to a set of questions. Their very status as answers is dependent upon the existence of such questions" (Rose 1999, 58). I thus ask: if the strengthening of border fences, the implementation of programs of mass regularization, the policing of urban immigrant neighbourhoods, the building of new detention centres, the ratification of repatriation agreements, the development of joint maritime border operations, and the extension of radar-based detection technologies on Spanish coasts are answers, to what questions or problems are they the answers? I ask these questions convinced that "in reconstructing the problematizations which accord them intelligibility as answers, these grounds become visible, their limits and presuppositions are opened for interrogation in new ways" (58).

Conversely, I also ask: how do these practices provide specific ways of thinking about irregular migration that contribute to its problematization as an object of knowledge and government? Indeed, problematizations emerge through historically situated discursive and nondiscursive practices that provide specific ways of *thinking* about and *acting* upon a set of difficulties (Soguk 1999) – that is, practices do not simply emerge as policy responses to a predefined policy problem; rather, they play an integral

part in defining and redefining this problem. In this sense, the problematization of "irregular" or "illegal" migrants in Spain is not simply the discursive framing of groups of people but their inscription as objects of knowledge and government into grids of intelligibility. Instead of looking at a policy problem, or a problem of government, as something that is first identified objectively and later managed through various strategies or solutions, the concept of problematization enables us to see these processes as simultaneous. "Irregular" or "illegal" migrants are constructed as objects of government at the same time that they are thought of as problems to be addressed in practice (Foucault 1984, 2014; Bacchi 2012; Moffette 2013). Problematizations reframe a variety of difficulties encountered through practice as discrete and intelligible problems that can be acted upon. To make sense of how irregular migration is governed in Spain, I thus inquired about the logics and practices that inform immigration policy.

Nikolas Rose and Peter Miller (1992, 175) built on the Foucauldian idea that "government is a domain of cognition, calculation, experimentation and evaluation" and developed an approach that attempts to account for these discursive and nondiscursive practices in problematics of government. In various interviews and texts, Foucault explained that he approached his investigations of problematizations through two methodological strategies, an archaeology that allows for the study of the discursive forms of problematizations, and a genealogy that focuses on their formation through heterogeneous practices (Foucault 1984; Kendall and Wickham 1999; Bacchi 2012). Rose and Miller (1992) translated this dual approach in their claim that problematics of government should be studied through *rationalities of government, programs of government,* and *political technologies.* While they were mostly concerned with very macro-level rationalities such as liberalism, the literature also inquires into sets of logics developing and operating at lower scales (Lippert and Pyykkönen 2012; Razac, Gouriou, and Salle 2014; Walters 2015). I generally engage with rationalities at this more context-specific level, and refer to them as sets of logics, rationales, or justifications, rather than more encompassing rationalities. It is at this level of analysis that one can study how programs claiming to "fight illegal migration," "promote the burden-sharing model," "oust bogus refugees," or "defend our borders" are informed, for instance, by

broader notions of legality, responsibility, economic growth, merit, sovereignty, belonging, culture, nation building, and so on. Indeed, programs of government translate these broader ideals into more pragmatic and programmatic modalities. It is at this level that the problems and strategies of government are framed. Policies, bills, laws, political parties' platforms, and proposals made by various organizations and nongovernmental organizations (NGOs) are all programs suggesting how a certain problem is to be governed and, as such, they provide a great entry point into the analysis of political rationalities. It is for this reason that Foucault's research projects were always organized around the problematizations of particular objects and the programmatic dimension of these problematizations was central (Foucault 1980, 1984, 2014). Indeed, the programmatic moment of problematizing is particularly interesting to study, since it is at the meso-level of government where ideals of government and a heterogeneous array of political technologies are organized together into programs.

For this reason, Rose and Miller (1992, 183) argued that we should pay close attention to the mechanisms, devices, and techniques mobilized to actually govern, because "it is through technologies that political rationalities and the programmes of government that articulate them become capable of deployment." Yet, as critical policy analysts have also shown, this relation is not a linear and rational process of implementation (Shore and Wright 1997, 2011). Indeed, policy programs often fail and have unexpected consequences. Further, the policy process does not start with the framing of the problem, followed by practices of implementation; these practices also contribute to the construction of the very object they govern. For this reason, while it is important "to study the humble and mundane mechanisms by which authorities seek to instantiate government" to better understand programs of government (Rose and Miller 1992, 183), we also need to remember that these technologies are not the realization of any will to govern, and we ought to pay attention to the role they play in shaping objects of government. As Rose (1999, 52) explains, a "technology of government, then, is an assemblage of forms of practical knowledge, with modes of perception, practices of calculation, vocabularies, types of authority, forms of judgment, architectural forms, human capacities, non-human objects and devices, inscription techniques and so forth." It is thus

clear that the very technologies mobilized to govern also contribute to rendering things into programmatic forms.

I engage with these dimensions of immigration governance diachronically and synchronically, using a three-tiered methodological approach developed by Trevor Gale (2001) for Foucauldian policy analysis. This strategy relies on a policy historiography (focusing on periodization and historical shifts in the immigration policy agenda), an archaeology of policy rationalities (looking at discursive continuities and changes in how irregular migration is framed), and a genealogy of the policy process (focusing on power dynamics, negotiations, and temporary policy settlements among various actors involved in immigration governance). This three-tiered methodological strategy is akin to Susan Wright and Sue Reinhold's (2011, 101) "studying through" approach, which aims "to follow a flow of events and their contingent effects, and especially to notice struggles over language, in order to analyse how the meaning of keywords are contested and change, how new semantic clusters form and how a new governing discourse emerges, is made authoritative and becomes institutionalized." Together, these strategies are key in helping us map out the roles of a multiplicity of actors involved in governing irregular migrants in Spain. Indeed, beyond its usefulness for studying the problematization of irregular migration as an object of government, this approach also helps us account for the "messy actualities" of multiscalar and multi-actor immigration governance (O'Malley, Weir, and Shearing 1997, 504). In other words, it enables us to map out and analyze the complex regime governing irregular migration in Spain. Following Giuseppe Sciortino (2004, 32), I use the concept of regime and highlight the idea that "the life of a regime is the result of continuous repair work through practices." I analyze the governing of irregular migrants as a regime, to capture "the flexible, multiscalar nature of the processes of governmentality and governance ... as well as the heterogeneity of their actors and the growing intertwining of knowledge and power that characterizes them" (Mezzadra and Neilson 2013, 179). Building on the qualitative analysis of over thirty years of policy documents, laws, and parliamentary debates in the Spanish Parliament,[3] on interviews with policymakers and other actors involved in front-line policy implementation, as well as observations of police practices in

Madrid, Barcelona, and Ceuta, I thus take into consideration the role of a multiplicity of actors (politicians, bureaucrats, police officers, judges, migrants), situated in different jurisdictions, who mobilize various kinds of legal and nonlegal knowledge to govern unauthorized migrants and irregular migration flows.

### Defining "Irregular Migration" and "Immigration Policy"

The object of the book is not irregular migration, its characteristics, causes, or consequences, but the logics and practices involved in governing it. Indeed, I look at how this object is rendered thinkable and governable by policymakers and other institutional actors. Following Dvora Yanow's (2003) ethnographic approach to policy, I study how policymakers, politicians, and officials name, define, and act upon this particular type of migration, as well as how legal categories contribute to reifying it as "irregular" or "illegal." In other words, emic categories developed in the policymaking process are more important here than etic ones.

This, however, does not solve the problem of how to name this type of migration here, since the terminology used by policymakers, civil servants, and scholars is unstable and open to contestation. As José María Ruiz de Huidobro (2006) explains, the main distinction in the legal literature revolves around the terms *extranjero* and *inmigrante.* Indeed, *extranjero* – foreigner or stranger – is a formal legal category referring to noncitizens present in Spain (international students, tourists, immigrants, and so on), while *inmigrante* – immigrant – is a sociological category referring to those who have left their country and are living in Spain with an intention to stay. While these are legal and somewhat objective distinctions, in common parlance Spaniards often refer to racialized individuals who work in agriculture or in construction as *inmigrantes,* even if they are there temporarily, while white, middle-class immigrants or retired, elderly Europeans living in Spain permanently are often referred to as *extranjeros,* even though they may also be immigrants. The distinction is thus also racially marked (Calavita 1998, 2005, 2007). And yet, as will be examined more closely in Chapter 2, the meanings of these categories are flexible, and the terms are sometimes used interchangeably in political discourse to refer to a variety of situations and in pursuit of a diversity of aims. Despite my commitment

to inquiring into the emic categories used by actors, I cannot adopt their terminology in this book.

The scholarship on irregular migration proposes a few different terms, and often points to the difficulty of defining this object. This difficulty stems from the fact that the category of irregular migration is a negative one, defined in contrast to regular migration and referring to individuals whose legal status is often unstable. For this reason, it is not uncommon for scholars to use the term "illegal immigrants." But it is important to highlight that, on the one hand, administrative irregularity does not equate neatly with illegality, and that, on the other hand, the unlawfulness lies with the act, not the subject (Coutin 2000, 2005; Menjívar 2006; Bauder 2013; Goldring and Landolt 2013; Menjívar and Kanstroom 2014). "Irregular" tends to be used in the Spanish context as a progressive alternative to the negatively connoted phrase "illegal," not unlike the terms "undocumented," "nonstatus," or "*sans-papiers*" in other contexts. However, the terms "irregular," "unauthorized," "undocumented," or "illegalized," when applied to migration, migrants, or immigrants, are all overly generalized. Most immigrants have documents, papers, and a particular administrative status, even when their legal status in the country remains uncertain. In Spain, not only are most entries lawful and "regular," but also people who become immigrants by overstaying their visas in contravention of the Alien Act are not the exception but the norm. To the extent that migration and immigrants can be considered "irregular" from a sociological or demographic perspective only if conditions or movements do not correspond to regular patterns, what we call irregular migration is in fact one of the most regular forms of migration to Spain.

In strictly legal terms, the phrase "migrant in a situation of administrative irregularity" is more correct. To render this specific meaning explicit, some scholars prefer to use "unauthorized" (Ngai 2004; Walters 2010; Varsanyi 2011; Aliverti 2013) or "illegalized" (Bauder 2013; De Genova 2004, 2013), two expressions that are more useful in many contexts. And yet the level of "institutional irregularity" in Spain (Calavita 2005, 45) reminds us that immigrants who do not comply with immigration regulation have been tolerated, if not encouraged. Indeed, just like their northern neighbours in the past, Southern European countries such

as Spain, Portugal, Italy, and Greece are dependent on irregular immigrant labour and tolerate or even encourage irregularity in periods of economic growth (Maas 2010). While it is true that the policy problem examined in this book emerged as a way of addressing the presence and movement of migrants whose activities were not sanctioned by the state, the term "unauthorized" is misleading since irregularity is informally encouraged. Finally, while the term "illegalized immigrants" nicely conveys the legal and social conditions of immigrants whose presence in a country is illegalized and often criminalized, the process of illegalization is in itself a policy response. Since I study how this particular type of migration became illegalized in the 1980s, using this term as a generic name would be analytically problematic. I thus rely on the emic terminology used by policymakers when studying their framing of immigration and immigrants but, for lack of better terms, I use "irregular migration," "irregular migrants," or "irregular immigrants" when referring to immigrants who find themselves in a situation of administrative irregularity with regard to the Alien Act. The most widely used in sociological scholarship on immigration and immigration policies in Spain, this terminology is also less cumbersome than the more exact phrase "migrant in a situation of administrative irregularity."

### Scope of Irregular Immigration in Spain

The magnitude of the phenomenon with which Spanish immigration policymakers are grappling is substantial. Indeed, according to the United Nations (2013, 13), Spain ranked second in the world (behind only the United States) as the country with the highest level of annual net immigration during the 2000–10 period. With an average of 508,000 new immigrants per year, it ranked higher than the United Arab Emirates (468,000), Russia (389,000), and Italy (376,000), the only other EU country on the UN top 10 list. In comparison, traditional immigration countries such as Canada (228,000), the United Kingdom (181,000), and Australia (181,000) ranked far behind, in eighth, ninth, and tenth positions, respectively. Despite a drop in immigration as a result of the recent economic crisis, the overall trend of the last thirty years clearly indicates that Spain stopped being the country of emigration it had always been and has now become a destination of choice for immigrants.

Since 1996, the best tool for estimating the total number of foreigners residing in Spain with and without residence permits is the municipal registry (*padrón municipal*). Indeed, the Law Regulating Local Government (LRBRL 7/1985) requires that anyone living in Spain register as a resident at the municipal level regardless of immigration status. Before 1996, we have to rely on the number of residence permits issued annually and try to account for irregular immigrants by using estimates from the 1986 and 1991 regularization programs (Izquierdo Escribano 1996). Using these two sources, we can estimate that the numbers of foreigners living in Spain increased from roughly 241,971 in 1986 (0.6 percent of the total population) to 542,314 in 1996 (1.4 percent), 1,370,657 in 2001 (3.3 percent), 4,144,166 in 2006 (9.3 percent), and 5,730,667 in 2011 (12.2 percent), before decreasing steadily as a result of the economic crisis and the adoption of a Plan for the Intensive Processing of Naturalization Files that helped process 686,898 backlogged files between June 2012 and May 2016. In January 2017, there were 4,549,858 foreigners registered on the *padrón,* 9.78 percent of the population.[4] According to Carmen González-Enríquez (2010), the existence of a dynamic informal labour market, especially during the construction sector boom between 1996 and 2007, and the ability of irregular immigrants to access essential social services such as education and health care from 2000 onward, contributed greatly to the rapid growth of the overall immigrant population.

It is more difficult to measure the number of immigrants in an irregular situation. The most common way of estimating this figure is to take the number of non-EU foreigners registered on the *padrón* in a given year and subtract the number of residence permits issued. From 2000 to 2012, all migrants had access to health care and other social services, irrespective of their immigration status, as long as they enrolled in this municipal registry. Furthermore, to access a program of regularization, irregular immigrants need to document the length of their stay in Spain, and registering is still by far the best way to do so. It is thus assumed that most irregular immigrants chose to register and that the numbers are relatively accurate. As with any method for estimating the number of unauthorized immigrants, this strategy has its limits. Some of the problems often mentioned with respect to this method are: (1) those who leave the country may not remove their names from the registry, leading to inflated numbers

until the obligation to renew one's registration was implemented in 2005 (and as a result, around 300,000 names were taken off the registry); (2) since 2003, police forces have access to the registry and, as a result, some migrants engaged in illegal occupations might choose not to register despite the incentive of access to essential services; and (3) some people who do not reside in Spain may nevertheless try to register in order to access health care when they visit (González-Enríquez 2010). To this list, we need to add the fact that immigrants living irregularly in Spain lost their access to health care in August 2012, which has significantly reduced the incentive to register, and also that municipalities sometimes make it difficult for immigrants to register, which may delay the process. Because of these problems, and attempts by demographers and quantitative sociologists to use other data to adjust their numbers, such as statistics gathered during regularization programs, the estimates vary greatly. They fluctuate from somewhere between 260,000 and 477,500 irregular immigrants in 2001, to between 1 million and 1.65 million in 2005, until the numbers decreased and then stabilized as a result of the economic crisis that began in 2007 (Cebolla Boado and González Ferrer 2013; González-Enríquez 2010). Using the most recent data available, a simple estimate indicates that there were 615,691 more non-EU foreigners registered on the *padrón* on January 1, 2016, than there were non-EU foreigners with residence or study permits on December 31, 2015.[5] While the very nature of unauthorized migration makes it difficult to measure, it can be estimated that there are between half a million and three-quarters of a million immigrants living in Spain irregularly.

### Defining "Immigration Policy"

The high level of administrative irregularity was a central concern for policymakers during the boom of the 2000s, but the preoccupation with irregular migration flows and the presence of immigrants without the proper authorization is not solely related to the quantitative significance of the phenomenon. Indeed, since at least the early 1980s, politicians, bureaucrats, and police officers have been debating the proper way to define and manage irregular migration. I take as an object of analysis the various policies used historically in attempts to govern irregular migrants

(as individuals), as well as irregular migration (as a demographic phenomenon). Since "policy" is taken here to mean something much broader than concrete policy documents and includes logics, programs, and practices involved in governing irregular migration, a brief discussion of this notion of policy is in order.

Foucault (2007) distinguished between law and police in seventeenth-century France. As Mitchell Dean (2007) and Nikolas Rose (1999) explain, the term "police" was used then in a sense akin to what we now refer to as "policy." Rose (1999, 24) also posits that in seventeenth-century Europe, "police" was not seen "as a negative activity concerned with the maintenance of order and the prevention of danger, but as a positive programme (close to our contemporary notions of policy) based upon knowledge." Foucault claimed that whereas laws set general rules and principles, police measures work through detailed regulations targeting specific populations or domains. In this sense, from a Foucauldian framework, policies can be distinguished from laws and considered more broadly as sets of tools deployed to intervene in a field of practices. This does not mean, however, that we should view laws as limited to formal prohibitions that are antithetical to the logics of police or of liberal regulation. Indeed, Foucault understands government as a mode of power that is "not a matter of imposing laws on men, but rather of disposing things, that is to say to employ tactics rather than laws, and if need be to use the laws themselves as tactics" (Hunt and Wickham 1994, 52). Following Alan Hunt and Gary Wickham (1994), I do not reject laws as irrelevant to governmentality, but consider them as tactics mobilized in creative and flexible ways by various actors involved in immigration governance. Accordingly, "policy" includes, but is not limited to, laws, regulations, and other legal devices. It also does not refer only to the programmatic form that laws and regulations take or to their implementation by street-level bureaucrats. Like most sociologists and anthropologists of policies, I am concerned with technologies of both a legal and nonlegal nature, and pay attention to the ways policies are elaborated, legitimized, presented, adapted, implemented, and contested (Gale 2001; Colebatch 2009; Shore and Wright 2011).

The scope of the policies covered is also vast, since irregular migration is governed by many measures that are not always developed within the

context of the so-called "fight against illegal migration" (Ministerio del Interior 2008, 1). Indeed, as Willem Maas (2010, 235) explains, since "irregular migration is a function of the opportunities for regular migration, the distinction between authorized and unauthorized immigration is murky and constantly being transformed as states change their immigration policies," rendering policies to govern irregular migration difficult to distinguish from policies to govern migration in general. Echoing this position, Rosa Aparicio and José María Ruiz de Huidobro (2010, 24–25) explain that they view immigration policy as "a 'conceptual construction' in ... light of the sets of policies and measures adopted ... on foreigners and immigration, taking account of the fact that there are no official documents that expressly include the policy as defined." Similarly, the policies under examination do not appear in one unified package but often need to be deduced from various regulations, programs, and practices as they are developed and applied in various locations and by different actors. Indeed, I consider policing practices, labour inspection raids, integration programs, and discourses about cultural diversity alongside border control, detention, and deportation as policies contributing to the governance of irregular migration. Policies are thus studied as much from the angle of the practices through which they are enacted and the technologies of government they mobilize as from the angle of the rationalities that inform them and the programmatic forms they have historically taken.

**Structure of This Book**

The book is broadly organized in three main sections. The next chapter completes this introductory segment by providing a historical discussion of the emergence of irregular migration as an object of governmental intervention in the 1980s. Chapters 3 to 5 are dedicated to a detailed analysis of the three complementary and intersecting sets of logics and practices that have informed the problematization of irregular migration as an object of knowledge and government in Spain since the 1980s. Chapters 6 and 7 explore the forms that the multiscalar governance takes in practice and engage in a conceptualization of immigration probation.

   More specifically, Chapter 2, "Early Problematizations: 'Immigrants,' 'Foreign Workers,' and 'Illegals,'" questions the narrative situating the birth

of Spanish immigration policies in 1985 alongside the adoption of the first Alien Act. This chapter engages with debates in Foucauldian socio-legal studies about the role of law in governance and contends that equating the origin of immigration governance with the adoption of the first Alien Act contributes to concealing the process of problematization through various practices. I trace the hesitant emergence of irregular migration as a problem throughout the parliamentary debates and police practices of the 1980s, and document the crystallization of the policy agenda in 1990–91 around the three sets of logics and practices that I call culturalization, labouralization, and securitization.

Chapter 3, "Culture: Race, Religion, and the National Imaginary," discusses the treatment of migrants as cultural subjects. I use the events that occurred during the five-hundredth anniversary of the "Discovery of the Americas" in 1992 as an entry point for an inquiry into the role played by the notion of "Hispanic community" and the development of "Maurophobia," or the fear and hatred of "Moors," in the early construction of Spanish national identities.[6] Drawing from the literature on racial governmentality (Goldberg 1993, 2009; Hesse 2004; Rhee 2013; Moffette and Vadasaria 2016), I discuss the importance of race as a mode of thinking and governing constitutive of the juridico-political ordering of modernity, and show how the notion of Hispanic community and the historical phenomenon of Maurophobia that came out of Spanish colonialism inform contemporary immigration policies. The literature on race, culture, and immigration in Spain tends to focus on discriminatory attitudes, racist public discourses, or problems of integration, but fails to seriously engage with race as a system of meaning. It is therefore unable to account for the profound ways that race informs immigration governance. I claim that the easier access to citizenship for Latin American and other culturally preferred migrants that is embedded in the Civil Code of 1889 and continues to this day, their differential treatment in immigration law until recently, and the framing of Muslim immigrants as impossible Spanish subjects are all informed by cultural and racial logics and practices that can be traced back to Spanish colonialism. The chapter also engages with the critical literature on nationalism, official multiculturalism, and the liberal management of difference to examine instances when influential politicians present Muslims as "problems of integration."

Chapter 4, "Labour: Flows, Workers, and the Labour Market," looks at a second logic, one that often intersects with culturalization. Labouralization, an emic concept used by policymakers, refers to both the process whereby immigration began to be managed more clearly as a labour market issue in the second half of the 2000s, and the unattainable dream of ordering migration flows in the most optimal fashion. It is a logic that is often coeval with a preoccupation with integration and tends to be presented as oppositional to the logic of securitization. Interestingly, however, labouralization shares with securitization a fascination with the mastering of flows. I argue that with its concerns for the harnessing of migration flows, the optimization of the economy, and a conception of the labour market as a natural entity to be known and steered, the labouralization logic is the one that resonates most strongly with the kind of regulatory governmental rationality discussed by Foucault (2007). I inquire into this logic through an analysis of the labour policies developed since the early 1990s to reduce irregular migration and channel labour migration flows.

Chapter 5, "Security: Threats, Crime, and State Sovereignty," is the last of the series of chapters highlighting the three logics. It covers what appears at first sight to be the most obvious set of logics and practices. I begin by discussing the concept of securitization and its theorization in critical security studies, questioning the flagrant lack of any consideration of the role of race in the securitization of immigration, and reframing the concept in a way that not only locates it as part of a governmentality of unease (Bigo 2002) but more broadly as an element of a racial governmentality (Goldberg 1993, 2009). The chapter then provides a mini case study of the first occurrence of securitization with regard to irregular migration, at the land borders between the Spanish enclaves of Ceuta and Melilla and Morocco in the mid-1990s, and the frenetic process of wall building that ensued. Engaging with the desire expressed by many policymakers to block all potential routes used for unauthorized migration, I follow this logic from the building of fences at the land borders to the diplomatic efforts aimed at externalizing the policing of irregular migration. A central dimension of securitizing logics and practices is the reliance on criminal law and practices traditionally associated with the criminal justice system to target irregular migrants and those who help them bypass border controls. Drawing from the literature on immigration penalty and the criminalization

of immigration (Weber 2002; Pratt 2005, 2012; Martínez Escamilla 2008, 2014; Brandariz García 2011; Aas 2014), I analyze various reforms to the Penal Code made to facilitate the prosecution of people involved in smuggling as well as irregular migrants and those who help them inside the country. I end this chapter by discussing the surprisingly recent insistence on framing irregular migrants as lawbreakers and on presenting deportation as a balanced and targeted technique aimed at excluding delinquents.

Chapter 6 studies how practices associated with culturalization, labouralization, and securitization intersect and work together in the everyday governance of irregular immigrants living in Spain. "Multiscalar Governance: Borderwork, Desirability, and Deportability" begins with the puzzling observation that, at the height of the securitization of immigration and the proliferation of border control strategies in the early 2000s, government officials and police officers allowed for the relatively easy entry of (mostly) Latin American irregular migrants travelling as tourists. Engaging with the literature in critical border studies (Balibar 2002; van Houtum and van Naerssen 2002; Walters 2002; Rumford 2008; Salter 2008; Gilbert 2009; Parker et al. 2009; Varsanyi 2011; Brambilla 2015; Ribas-Mateos 2015), I suggest that this strategy is one of displacing some of the filtering work performed by borders and immigration selection across space and time. In this context, facilitating entry, policing the streets, regularizing "deserving immigrants," and attempting to deport "undesirable foreigners" are analyzed as complementary dimensions of a diffuse and flexible regime for governing migration through probation. Questioning the apparent contradictory logics informing these varied practices, I claim that they work together to create a regime of migration management based on a long probationary period during which migrants are scrutinized and policed by a diversity of actors much broader than those readily identifiable as border security professionals. This chapter also engages with the growing literature on the criminalization of immigration and suggests that, in Spain, the ways in which promises of inclusion work alongside practices of exclusion is best analyzed using the concept of probation.

The existence in Spain of a regime of immigration management organized around probation is further discussed in the concluding chapter, "Governing Immigration through Probation," which summarizes some

of my main theses and further conceptualizes the Spanish regime that governs migration through probation. I claim that this form of immigration management is effectively produced in Spain by the spread of bordering practices across space and time, the production of an extended period of legal liminality, and the reliance on a multiscalar assessment of desirability. This research on the ways in which migrants are governed through probation by a diversity of actors relying on complementary and contradictory sets of logics and practices helps us make sense of the connections between precariousness, conditionality, and disposability in immigration governance.