

Status (Im)Mobility and the Legal Production of Irregularity: A Sociolegal Analysis of Temporary Migrants' Lived Experiences

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Abstract

By combining legal analysis with data obtained through a longitudinal and qualitative fieldwork, this article looks at the impact of time and temporality on migrants' trajectories. We find that legal insecurity is experienced by the majority of migrants residing lawfully in Belgium as a result of temporal constraints. Indeed, we argue that enforced temporariness and the conditionality of migrants' stay increase the risk of precariousness and irregularity irrespective of migrants' nationality. The article also looks at the consequences of legal insecurity on individuals' trajectories. Since legal stay may be subject to disruptions, migrants with temporary status share the feeling of living in a situation of liminal legality and liminal times. However, they can find ways to overcome these temporal constraints using coping strategies. Through a sociolegal analysis, this article sheds light on temporality as a normative constraint as well as an individual experience creating immobility.

Keywords

Immigration policies, international migration, irregularisation, legal status, status mobility, temporariness, time

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Introduction

I attempted to do a declaration of nationality because I have been in Belgium now [...] over ten years. And you need five consecutive years in order to be able to do a declaration but I was refused because there is a month and a half where I was in an illegal status. [...] So now they consider that I have only been in Belgium for 3 years. I was unable to vote for the elections here, and I was also unable to do the papers for nationality [...]. I had no idea that it was going to have an impact.

– Martin (November 2018)

Over the past decades, the complexity of immigration policies in most European countries has been compounded by frequent legal reforms. This resulted in increasingly selective policies, a reinforcement of the control of entry and inconstant national legal frameworks. This trend is not without consequences on migrants' life trajectories (Schuck, 2007). Migrants indeed share a particular relationship with the law and national legal systems since crossing international borders means crossing legal boundaries and entering the territory of a given state according to different formal or informal modes – for example, family reunification, asylum, work visa, undocumented entry and so on – which leads to their classification into different legal categories and status. These legal categories shape migrants' ability to enjoy socio-economic rights, including access to the labour market, and they have a significant impact on migrants' living conditions, everyday experiences and future opportunities in the host country. Through legal categories, destination states construct layers of status – what Morris (2003) calls 'civic stratification' – and produce legal precariousness. Continuous presence on the territory is often conditional and migrants risk losing their residence permit for various reasons, sometimes beyond their own control. Thus, while governments allow migrants' presence on their territory according to specific conditions, migrants endure limitations and constraints that reduce their autonomy in essential areas of their everyday life (Bolzman, 2016).

Time and temporality are essential – yet often overlooked – factors to understand the ways in which the legal framework impacts on migrants' lives and trajectories. Migration is as much concerned with mobility and space as it is with time (Cwerner, 2001). The very definition of migration implies that people move, internally or across international borders, for a minimum period of time. Short-term mobility, such as tourism, is usually not considered as migration. Beyond the duration of mobility per se, time structures migrants' trajectories in different ways, including through the length of time they are allowed to remain on the territory or the temporal requirements to obtain citizenship (Bauböck, 2011).

In this article, we are concerned with the ways in which time rather than space shapes migrants' experiences and trajectories. Using a thorough empirical and qualitative analysis, we are looking at the temporal dimensions of migrants' stay in the country of destination and the rhythms of their post-arrival experiences. In particular, we argue that there exists a specific relationship between the temporalities imposed on migrants by immigration policies and administrative practices and the process of irregularisation.

Throughout the article, we show that, through enforced temporariness, immigration controls create precariousness and, at times, produce irregularity for those who are legally present. In doing so, we wish to contribute to the existing literature at the intersection of temporality, border regimes and irregular migration.

After this introduction, the article consists of six sections. The first one is a literature review showing that time plays a structural role in post-migration lived experiences. The second section outlines our methodology and data as part of an ongoing interdisciplinary project. In the third section, we elaborate on the consequences of legal categorisation and temporariness, putting migrants at risk of becoming irregular. Drawing upon our interviewees' experiences, we illustrate the argument made in the previous section by highlighting the concrete consequences of legal categories and temporariness on their lives. The fifth section explores migrants' agency and the ways in which they deal with temporal constraints and the risk of irregularisation. The last section is a discussion of our key findings.

Temporalities of Immigration and Processes of Irregularisation

As a structure of power and domination, time plays a central role in social processes of inclusion and exclusion. It is therefore not surprising that an increasing body of literature addresses the temporal dimension of border regimes and its impact on the lives of migrants both before and after arrival in the country of destination. Immigration is governed, selected and contained through the establishment of temporal borders which affect and disrupt the temporality of migrants' journeys (Cwerner, 2001; Mezzadra and Neilson, 2013). In line with Bourdieu (1997) who highlighted that time and temporality are associated with bureaucratic domination, Hage (2009a) argues that there is a politics of time as well as a politics around who is to wait and what waiting entails. For instance, migrants living in camps face prolonged waiting periods. For those fleeing persecution, camps are primarily a place of waiting (Agier, 2014; McNevin and Missbach, 2018). External borders also create waiting spaces as migrants are stuck in transit (Andersson, 2014; Tazzioli, 2018). They wait before continuing their journey. Time is also a constitutive element of asylum seekers' experiences. Once they have applied for international protection, they usually wait in reception centres for a few months and sometimes over a year (Brekke, 2010). Rejected asylum seekers who are detained prior to their removal also make the experience of a slow time of waiting, and contrary to prisoners, they do not know when they will be free again (Griffiths, 2014). Migrants with a regular status also feel temporal alienage resulting from the overarching and pervasive presence of immigration controls. One example of this is the length of permitted legal stay, which translates into temporary or permanent residence permits. Across the globe, immigration is increasingly regulated as a temporary phenomenon (Boucher and Gest, 2018). Even in Canada and Australia, there is a policy shift away from the settler society paradigm towards greater temporary admissions (Dauvergne, 2016; Mares, 2016; Nakache and Dixon-Perera, 2015; Robertson, 2014). Since the authorisation to enter and reside on the territory of destination countries is valid for a predetermined duration, continuous presence is conditional, and inclusion within society is suspended (Allen and Axelsson, 2019). Upon admission, migrants are allowed to remain temporarily in the host country,

turning permanent residency into the outcome of prolonged immobility and temporariness (Della Torre and De Lange, 2018). Similarly, citizenship is acquired after having lived continuously and legally in the destination country for a number of years. It follows that time is a central component of policies implemented to manage and control migration. On numerous occasions, migrants – whatever their status – find themselves in a situation Hage (2009b) calls ‘stuckedness’ due to border controls and the enforcement of immigration policies.

Researchers have shown that temporariness is closely associated with precariousness, labour exploitation and unequal access to rights (Anderson, 2010; Dauvergne and Marsden, 2014; Morris, 2003). Focusing on specific legal status and the rights associated with them, others have underlined that temporariness can become a permanent state of insecurity for migrants (Chetail, 2008; Menjivar, 2006; Mountz et al., 2002). However, focusing only on specific categories of migrants who are admitted on a temporary basis is not enough for it fails to address systemic connections between legal statuses (Goldring, 2014). In order to better understand the process of precarisation and the legal production of irregularity, we believe that it is necessary to look at the relationship between immigration categories and migrants’ movements across legal status. In fact, once started, the migratory process becomes self-sustaining and migrants often move from one legal status to another in a given country. However, immigration laws hardly account for such dynamism. As a result of the mismatch between legal statism and individual trajectories’ dynamism, regularly staying migrants may fall into irregularity. This supports the argument made by Castles (2004) that migrants’ agency partly explains why immigration policies fail and create irregularity.

To illustrate the complexity of migrants’ legal status trajectories, Goldring and Landolt (2013) use the model of ‘chutes and ladders’. This model helps understand the process of irregularisation by focusing on legal status dynamics resulting from the expansion of temporary migration status and the reduction of avenues for permanent residency rights and full citizenship. This process of moving in and out of secured legal status refers to what Menjivar (2006) calls ‘liminal legality’, which creates long-term uncertainty for migrants (Chacon, 2015; Lori, 2017). As migrants navigate through various categories of temporary legal status, they may find themselves on the edge of legality and become irregular at some point in time. As a consequence, legal stay may be subject to disruptions (Calavita, 1998; De Genova, 2002, 2004). In particular, the process of irregularisation is linked to status change and the difficulties encountered to move from one legal status to another. In this sense, irregularity is constructed by and built in immigration legal regimes (Dauvergne, 2008; Düvell, 2011; Vickstrom, 2014). The distinction between legal and illegal residents is thus increasingly blurred as there is a continuum of (il)legal status and transitions between them. More importantly, insisting on the interplay between irregularity, legal frameworks and broader social institutions, we argue that the process of irregularisation is structural rather than dependent on individual factors.

Time is also an important structuring element of agency. Emirbayer and Mische (1998) interestingly highlighted the temporal dimension of this notion by defining it as a temporally embedded process informed by the past and oriented towards the present and the future. Particularly, agency is a process of adaptation to current circumstances while searching for a balance between multiple dynamic aspirations (Hart, 2016;

Ortner, 2001). In this sense, projections – or imagined possible projects for the future – are important as they enable individuals to link their aspirations and actions. They form ‘horizons for action’ (Hodkinson and Sparkes, 1996, as quoted in Hart, 2016) and influence individuals’ capacity to make choices and be autonomous in line with their personal projects. However, this is particularly difficult for migrants experiencing periods of ‘liminal legality’ because of the uncertain and insecure situation they live in and upon which they have only limited control. Disadvantaged people typically make less and more short-term projections (Appadurai, 2004). As Cwerner (2001) highlighted, immigration status is bound to dominate migrants’ experience and their perception of time. Caught in time traps, their future becomes dissociated from the present, and migrants lose power over their life plans which must be continuously re-examined based on contingent and external factors.

Data and Method

This article draws on data gathered within the course of an interdisciplinary project called ‘Personal Aspirations and Processes of Adaptation: How the Legal framework Impacts on Migrants’ Agency’ (LIMA). This project concurrently analyses the impact of legal frameworks on the agency and the life trajectories of third-country nationals and the ways in which they adapt to legal constraints in the destination country. It focuses more specifically on the experiences of migrants from India, the Democratic Republic of Congo (DRC) and the United States of America (USA) who migrated to Belgium.

The interest of Belgium as a case-study lies in its migratory history. Although the forms of migration and the origin countries of migrants have diversified over time, Belgium has never ceased to be a country of immigration (Lafleur et al., 2015). As for the three nationalities chosen, it results from a combination of several factors. Firstly, they have not received the same attention in research. While the literature on Congolese immigration to Europe and Belgium more particularly is abundant (Demart, 2013; Schoonvaere, 2010; Schoumaker and Schoonvaere, 2014; Vause, 2011), there is much less on immigration from the USA (Klekowski von Koppenfels, 2014) and India (Cosemans and Goddeeris, 2013). Secondly, migratory flows for these three countries are currently of a relatively similar size in Belgium and represent each 4–6% of total inflows, allowing for a comparison of their situation. Their migration patterns are, however, different over time. Congolese immigration is old and sustained through family reunification. It also fluctuates according to periods of crisis and conflicts in the country resulting in larger inflows of asylum seekers. On the contrary, immigration from India is more recent and increased in the late 2000s. Indians mostly come for study or work-related reasons. Immigration from the USA, which has remained constant since the 1970s, is made up of students, workers and beneficiaries of family reunification. These differences make it possible to contrast three population groups who do not have access to co-ethnic networks of the same size in Belgium, generating different possibilities and opportunities in the host country. Political, legal and social considerations also differentiate these three nationalities. A distinction is usually made between people from the so-called southern countries and those from the North. Americans are usually perceived as expatriates and their immigration, which is almost invisible in Belgium, is not

perceived as problematic while nationals from the DRC are more often perceived as ‘undesired’ immigrants. Indians, coming from an ‘emerging’ country, seem to occupy an intermediate place in this dichotomy. Finally, because of their specific migratory trajectories, these nationalities have different economic and sociocultural profiles which influence the resources they can access to and the ways they mobilise them.

Our contribution combines legal and sociological analyses from two complementary perspectives. The first perspective is a top-down approach which analyses the ways in which the Belgian and European legal frameworks regulate migrants’ life in the host country. The second perspective is a bottom-up approach which aims to confront the legal analysis with data gathered during a qualitative and longitudinal fieldwork to reflect on the reality and the lived experiences of migrants. This approach allows us to understand the concrete impact of the normative environment on their everyday lives, while giving visibility to their own perception of it. In this particular study, we looked at how the temporalities imposed on migrants by immigration policies and bureaucracy affects their everyday life in relation to the risk of becoming irregular. Our focus is on the temporal ordering of migrants’ life in the destination country with a particular attention on how legal structures and migrants’ agency interact and eventually influence each other.

Sociological data were gathered through a qualitative and longitudinal fieldwork between September 2016 and January 2019. We conducted a total of 90 qualitative semi-structured interviews with adults from the DRC (13), India (21) and the USA (19) who declared being in Belgium for at least 2 years. This temporality was chosen to understand the experiences of settling down in Belgium. The use of the so-called ‘snowball’ technique allowed us to recruit different profiles of people. Our population, composed of men (31) and women (22) between the ages of 22 and 52, is indeed a heterogeneous population in terms of legal statuses (asylum seekers, irregular migrants, migrant workers, students, diplomats and persons arrived through family reunification), socio-economic characteristics and life history.

The interview guide focused on the pre-migration life of the participants, the different stages of their administrative, family and professional trajectories, the difficulties and opportunities encountered, as well as the evolution of their projects and aspirations throughout their stay. The initial interviews were conducted using a timeline drawn progressively during the participants’ narrative. Participants’ networks could be captured using a participatory visualisation technique in which they were asked to represent and tell their social relationships (D’Angelo et al., 2016). Two waves of follow-up interviews enabled us to delve deeper into certain topics and to grasp current developments within the trajectories and networks of each person we met. The longitudinal dimension was essential to identify the ways in which various events and relationships appear, influence and develop in different social, legal and institutional contexts over time. The administrative timelines of our respondents are reproduced in Figure 1.

Legal Categories, Temporariness and Processes of Irregularisation

Looking at our respondents’ administrative trajectories (Figure 1), we see that these are complex and multidirectional as many of them combine periods of legal stay with

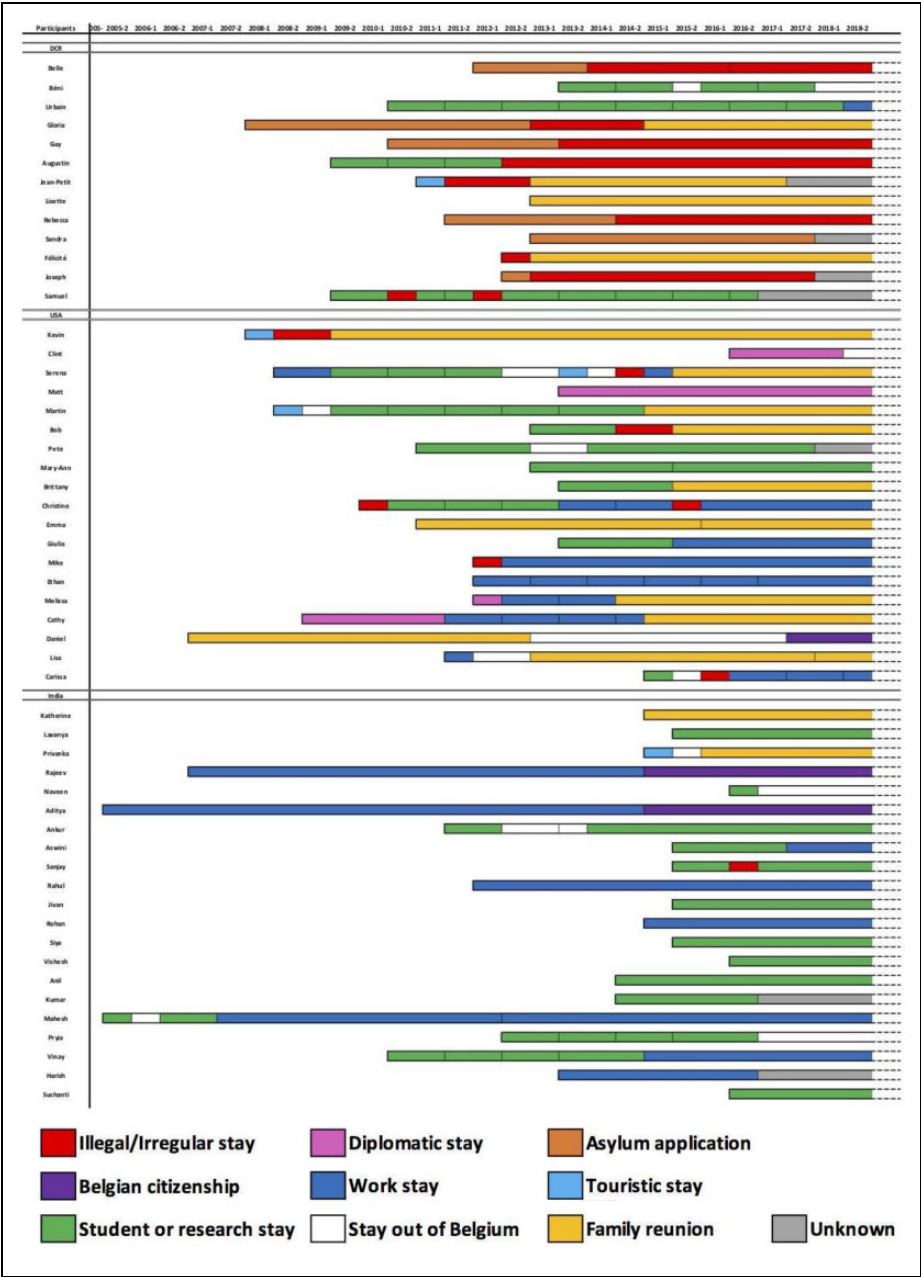


Figure 1. Administrative timelines of the LIMA project's participants. LIMA: Legal framework Impacts on Migrants' Agency.

periods of insecure legal status, and sometimes phases of irregularity. We observe that most migrants navigate from one temporary status to another, some of them fall ('chute') into irregularity and possibly obtain another temporary status subsequently ('ladder'), while very few acquire the Belgian citizenship – which, from this perspective, is the final ladder – although they have been in Belgium for years (Goldring and Landolt, 2013). As a result, migrants' administrative timelines look increasingly disrupted, proving wrong the conceptualisation of immigration as a linear progression towards secured legal status and citizenship (Villegas, 2014). In particular, the process of irregularisation is taking place irrespective of migrants' nationality.

Legal categories of immigrants produce a multitude of status with differentiated access to rights and play a direct role in creating and sustaining uncertainty and instability (Anderson, 2010). As we argue in this article, the process of irregularisation is linked to the diversity of temporary legal status combined with the absence of transition periods between one status and another. As migrants navigate from one temporary status to another, the risk of becoming irregular increases. This explains why, in our data set, nationals from India coming mostly for work purposes – whose legal status is more stable over time due to the lack of transition in their occupation and thus legal status – do not experience irregularity as much as others. On the contrary, the risk is particularly acute for international students and rejected asylum seekers, whatever their country of origin.

For states, temporary admission categories are a tool to manage immigration and to control migrants even after their initial admission. Through the issuance of temporary residence permits, states impose time constraints and rhythm to regularly-staying migrants who have to renew their permit on a regular basis, often annually, as in the case of international students and temporary labour migrants. Failure to do so may lead to irregularity, and non-compliance with immigration laws is usually a cause of removal. Yet for a residence permit to be renewed, the initial conditions of admission must be met. This allows states to ensure that immigrants remain subject to immigration controls after entry.

Initial admission and residence permits are usually framed in relation to different immigration purposes and are justified by specific policy objectives. For instance, students or researchers are admitted for the length of their studies or research, the admission of labour migrants depends on the validity of their work contract and family reunification is conditioned by the maintenance of family links. Since the authorisation to remain on the territory of the destination country is functionally conditioned, it is also temporarily limited for the period of validity of residence permits is predetermined by the law. Migrants generally have to pass through a probationary stage during which their right to stay is temporary. Until they obtain a permanent residence permit or full citizenship, migrants' right to remain on the territory depends on a series of conditions and is thus precarious and uncertain. Only after a minimum of 5 years of legal and continuous stay in Belgium, are migrants granted with an autonomous and unconditional residence permit. As a result, migrants often find themselves stuck in a particular legal status unless they apply for status change.

However, rules on status change are a cause of irregularity. For most respondents, irregularity occurred after years spent as regular migrants in Belgium when they

introduced an application for status change. As the legal framework creates a diversity of status based on migrants' primary purpose for migration, if that purpose changes over time, migrants must apply for another residence permit. Given the increasingly restrictive nature of contemporary immigration policies, to change status is made more difficult and uncertain. A major concern expressed by many of our respondents is the lack of time to meet the conditions to successfully transit from one status to another. Even if they meet all legal requisites, in most cases, migrants simply do not have the time to comply with all the bureaucratic steps necessary to change permit – hence, their stay becomes irregular. In order to fill an application, third-country nationals often face long waiting times in crowded and understaffed local administrations. Afterwards, cumbersome and inefficient bureaucratic procedures increase the risk of irregularity. Applicants sometimes have to wait so long to have their residence or work permit renewed that it expires in the meantime. Waiting for their application to be processed, migrants may become *de facto* irregular. While migrants have to comply with strict deadlines, public administrations are rarely sanctioned for their lack of responsiveness. It is from this perspective that we argue that irregularity is entrenched in the structure of the legal system designed to regulate immigration. It is a problem of legal design and not necessarily the result of migrants' wrongdoings.

International students in Belgium provide a good illustration. Since students are allowed to remain in the country for the duration of their studies, their residence permit expires at the end of the academic year. If they want to remain on the territory to work, they must find a potential employer and introduce an application for status change well before the end of their studies. Aswini, a 27-year old Indian national who previously studied in Belgium, told us that she felt the need to look for a job as of February – which is about 6 months before her graduation. The process of job hunting put enormous pressure on her, as she had to complete her master and write her dissertation at the same time. On the contrary, Bob – a 29-year old US national who also came to study in Belgium – was less concerned with paperwork; he overstayed his student visa and became irregular for more than a year.

Sociologists are increasingly using the concept of 'liminal legality' to describe the experience of navigating between different legal statuses. As Chacon (2015: 716) argues, 'contemporary liminal legality is characterised first and foremost by its inherent legal uncertainty which means that individuals' legal assurances against full marginalisation lack definitive temporal scope'. The long-term uncertainty experienced by most migrants indeed relates to the conditionality of their legal status. Here, we are referring to individuals who are forced to constantly move in and out of (il)legal migration status, leading to uncertainty about the length of their stay and the possibility to remain in the country of destination. Such uncertainty denotes the contingency surrounding an individual's ongoing presence in a legal status category and jurisdiction (Goldring and Landolt, 2013).

As people move in and out of legal and illegal statuses, the acquisition of a permanent residence permit or full Belgian citizenship becomes more difficult. In order to obtain permanent residency rights in Belgium, third-country nationals must demonstrate that they have resided continuously *and* legally on the territory for 5 years. As a result, if they

experience periods of irregularity, migrants may be maintained in a situation of prolonged temporariness. This is what Bob told us:

If you live in Belgium for three years, you can apply for a permanent residency. I believe in 2013 that changed, three years to five. And in theory, I have been living in Belgium for five years, as of January [2018], but I have that one year and a half of illegal status. So, I do not know, I am thinking of just applying for it now, because I have been here for five years, but I do not know if there they would say like ‘Okay, you were not registered in the system for that period of time’. [...] I would like to get it over as soon as possible, I would like not to be dependent on this woman. I would just like to have this freedom, where I just kind of consent in my own universe and I am completely reliant on myself, and nobody else. (Bob, interview extract, October 2017)

Building on the notion of legal liminality, we argue that uncertainty and contingency surrounding migrants’ stay is a constitutive element of temporary admission systems. Combined with legal categorisation, time constraints make it difficult for migrants to remain within the boundaries of the law. As a consequence, periods of irregularity are experienced by many interviewees whatever the category they belong to and irrespective of their nationality. Through immigration controls, states produce complex trajectories that blur the distinction between insiders and outsiders or regular and irregular migrants. Irregularity is less an accident than the result of often unrealistic legal requirements. Aware of this looming threat, most migrants experience uncertainty and insecurity in their everyday life.

Lived Experiences of Temporal Constraints and Processes of Irregularisation Amongst Third-Country Nationals in Belgium

As explained above, temporary migrants have a particular relationship to time because of the temporal dimension of their legal status in the host country. They face a number of state-related time constraints that limit their autonomy and capabilities in essential areas of everyday life, such as family life, work or education. As discussed in this section, legal, institutional and administrative temporalities control migrants’ trajectories at each step of their admission and integration process.

While being under temporary and conditional status, migrants regularly need to renew their permit to be able to remain legally in the host country. Immigration authorities then verify that all conditions imposed on their continuous stay are met. Augustin – a 51-years old from the DRC who arrived in Belgium in 2009 with a student visa – explained that these repeated situations of having to renew one’s residence permit increase the risks of falling into irregularity:

[I am irregular] because each year, it was necessary to renew [my student residence permit]. The student [residence permit], it is annually renewed. Every year, on October, they tell you ‘Here you are, you still have the scholarship, you still have someone that takes you in charge’. [...] And then, I got sick ... at the time I had to renew it. I had to prove this and that. [...] And they said ‘No, now it’s impossible, you can not renew your stay because you

have not studied this year'. So that's how I lost my permit. [...] I did not have the money anymore to go back to school because... I do not know for which operation but [the healthcare insurance] did not participate at 100% to the costs and so it got very expensive! And from there, I thought 'What am I going to do?'. That's how it happened... I went everywhere to see how I could renew my residence permit to be able to finish my studies but I lost it because I had no more registration [at university]. And to be enrolled, you need a residence permit. The problem was there! You cannot be enrolled if you have no residence permit and to have one, you need a reason. It is a bit of a vicious circle in which I put myself.¹ (Augustin, interview extract, December 2016)

Sickness prevented Augustin from actively being a student which was the reason for his initial admission in Belgium. Sickness also put him in financial difficulties and he could no longer afford studying. This accumulation of complications along his trajectory – sickness, financial difficulties, temporary and conditional stay in Belgium and impossibility to continue his studies – led to the withdrawal of his residence permit. This can be framed by what O'Rand (2009) calls 'cumulative disadvantage', which powerfully expresses this process of production and accumulation of inequalities over time through an unequal access to resources – the legal status being one of them. As Augustin's narrative shows, residence permits may be revoked at any time if the main reason for admission is no longer valid (marriage dissolved, rejection of the asylum application, failure in studies, etc.). In fact, the cessation or transformation of migrants' activity which had justified initial entry in the country of destination often leads to the end of their temporary regular stay (Bolzman, 2016).

Moreover, trapped in a vicious circle, Augustin experienced a sense of immobility combined with insecurity and uncertainty. This is also expressed by Mary-Ann – a 23-year old American who settled in Belgium in 2013. In fact, she encountered difficulties with the need to repetitively renew her temporary residence permit. She particularly highlighted the anxiety and frustration related to such legal constraint.

Honestly, every year that I had to renew my permit I have had huge problems. The first year it was just a little bit of stress, but it was resolved within twenty-four hours, it was fine. But, definitely, the next year was really awful! Now, when I go to the commune I get really nervous [...] because of all the problems I had being a student and renewing my permit. [...] At the moment, I am getting ready to apply for the cohabitation visa [and] I am really nervous about that. [...] before I can apply for jobs, I have to apply for my cohabitation visa and only then I can start applying for jobs. (Mary-Ann, interview extract, February 2017)

In fact, immigration laws and policies contribute to producing forms of precarisation combined with personal frustration. The inherent fragility and uncertainty of migrants' status in the host country create instability in many aspects of their everyday life and 'infuse all parts of [their] life, even those parts that are seemingly distinct from the migration process' (Harper and Zubida, 2016: 103). Since migrants' continuous stay is increasingly uncertain, their family, work and educational trajectories are more fragmented and intermingled (Vlase and Voicu, 2018). Even a temporary lack of legal status,

which may be due to processing delays, can lead to temporary unemployment, the loss of a job or the loss of access to education (Chacon, 2015).

The consequences of temporariness and fragmented trajectories are manifold for migrants. As argued by Anderson (2010), legal categories of immigrants with temporary stays not only produce different statuses but also differentiated access to rights and services leading to social and economic precarity. Lisette's experience illustrates this very clearly:

When I arrived in Belgium, I knew I could not work [but] they told me I could study. So, I thought 'Ok, I see that there are needs for medical and paramedical workers [...], I could get into that'. I tried to enrol in a nursing school here in Belgium [but] they refused that too. They said: 'Since you do not have a permanent residence permit, it is not worth it because you will get education today [but then] you will go home'. [...] I think all these restrictions do not make Belgium that successful. There are too many restrictions. Everywhere you go, there is a locked gate. Even by not giving me a work permit... That does not stop me from working, I am working, but if I had a work permit, I could contribute as well.² (Lisette, interview extract, January 2017)

Lisette's narrative and her experience of temporariness and legal constraints raise the question of inclusion and integration of immigrants in the host societies. As argued by Allen and Axelsson (2019) using the concept of 'suspended inclusion', since migrants' presence is increasingly conditional and constructed temporarily, their inclusion within the host society is suspended in time. In fact, legal status affect migrants' paths towards integration in a variety of ways as it plays a significant role in areas that are fundamental to integration such as employment, higher education or health. More secure legal status granted to migrants would, on the contrary, enhance their integration (Groenendijk, 2004).

Uncertainty over the future confines migrants into the immediate and present time, slowing down the integration process. Temporariness casts a shadow over migrants' present and creates uncertainty regarding their future in general. As a result, migrants are compelled to live in the present time and with short time perspectives. Reflecting on Augustin's narrative – asking himself what he was going to do after losing access to education – we see that the precarity associated with temporal immobility prevents migrants from making projections (Griffiths et al., 2013; Villegas, 2014). Situated in a limbo between the past and an unclear future, having to live 'on hold' (Gonzales and Chavez, 2012), temporary migrants are unable to plan for the future and experience what Brekke (2010) calls a 'directionless time' as their present does not point in any specific direction. In fact, many interviewees expressed concerns over the limited control they have over their future due to their temporary status and the insecurity regarding their presence in the country:

Nobody can be happy with that situation! It's [annoying] because things are hanging out as if administrations were doing it on purpose. [...] They are making people suffer for nothing. These are weeks that pass by, years that pass by without knowing. For me, it is a great loss of energy. We cannot value what we have because we are stuck. [...] At the same time, there is anger, bitterness and... simply injustice and that is. [...] It's not even

the Belgians themselves, but administrations.³ (Augustin, interview extract, December 2016)

Echoing Brekke's (2010) findings, migrants' experience of temporariness – and irregularity – may lead them to question their identity and place in the world, as Bob told us:

It is a different perspective for me because . . . Maybe for [some people], they are not used to travelling their whole life . . . They are not used to have all this pleasure. I am a privileged person, I am. And to say that I was illegal . . . I tell people I am an American man and I have never considered myself illegal, I have never considered myself wanted by the police. [. . .] For me it is weird because I had that my whole life, and it is like taken away, I could not get on a plane anymore. It messes with your head. (Bob, interview extract, October 2017)

Entangled between conflicting aspirations and legal constraints, temporary migrants face a number of trade-offs. Like any human being, migrants have a plurality of affiliations – for example, as fathers, brothers, employees, students and migrants – which they acquire through different forms of socialisation. These affiliations or roles inform individuals' actions and choices. However, because of their immigration status, temporary migrants have to make choices they would not make otherwise.

I have considered moving to [Africa] but then decided not to since I am already so close to getting my Belgian citizenship. And to give that up, you know, for my personal life, I could not do it. I was like, no, I have a job and all that. [. . .] That affected of course my personal life. [. . .] It is not just the Belgian citizenship but a European citizenship! [. . .] What happens if I would have to go back to the US? When can you start to think about having children and marry and all these things? [. . .] I would not be comfortable having children in Europe until I had European citizenship [. . .] until I have my European passport. (Christine, interview extract, 2016)

As Christine rightly stressed, some important aspects of life, such as family or professional fulfilment, are balanced against others. In many cases, migrants need to prioritise sometimes equally valuable options or make difficult decisions because of their precarious legal situation. Samuel – a 40-year old from the DRC – also had to choose between being able to live with his family in Belgium and start his academic career in France:

I started looking for grants [in Belgium]. All that was really complicated and I did not want to go back to Congo, because to go back and then return to Belgium, that was complicated. One day, I saw an ad saying they were looking for PhD students in Paris. [. . .] Just like that, I manage to get a grant [in Paris], without any admission nor residence permit. [. . .] In the meantime, my file here in Belgium had progressed. I explained to [one professor] that I had obtained a grant in France [. . .] but that they could not pay a person who had a residence permit in Belgium, from France. [. . .] Then, I went to France, explained my situation there and sought information about the possibility to do a family reunification there. They told me that it was practically impossible [. . .] because I would not meet the minimum time of

residence in France necessary to be granted the right for family reunion. In France, you need to have three years of continuous stay. I was back to zero! I said ‘No, I cannot lose my continuous stay in Belgium either’. My wife could not handle the situation anymore. She was depressed. I said ‘No, I am really putting my family in danger, I would rather come back to Belgium and continue the process’. [...] I really wanted to keep that continuous stay.⁴ (Samuel, interview extract, 2016)

The last two interview extracts show that precariousness – and the immobility that is linked to it – not only concerns migrants’ right to stay or their access to rights in the host country but infuses all parts of their life and trajectory. However, this does not mean that they cannot develop margins of autonomy to deal with this precariousness. Individuals develop strategies to cope with heteronomous time constraints in order to survive in an environment where they do not have control over the rules (Bolzman, 2016).

Migrants’ Agency: Acting Upon Temporal Constraints in the Host Country

Despite institutional, legal and structural constraints impacting their autonomy and ability to dispose of their time, migrants develop margins of autonomous action. Indeed, studies have shown that migrants are not powerless subjects. On the contrary, they can develop strategies to cope with structural limitations and adapt to them in order to pursue their projects and achieve their aspirations. This idea refers to the concept of ‘agency’.

Agency, as emphasised by participants’ narratives, strongly depends on the resources and forms of capital (social, economic, cultural and/or symbolic) they have or can have access to in the countries of origin and destination. Serena, for instance, who studied international migrations, described how she managed not to become irregular in Belgium despite the temporal limit of her Schengen visa:

There was a period when I was not sure, the 90 days, I knew that the 90 days would be surpassed if I stayed the full time until the birth of my niece. So, I pretty much subtracted days outside the EU, because it does not really matter if I would be in Belgium, if I were in France. [...] It had to be outside of [Schengen]. So, I knew the week in the UK would be deducted, I knew the three weeks in Turkey would be deducted and I also knew that as long as I eventually left, it probably would not be a huge problem. (Serena, interview extract, December 2016)

Serena mobilised her cultural capital – the legal knowledge she acquired through higher education – to avoid becoming irregular. By trying to get control over and to stretch time, she went through what Andersson (2014) calls a ‘multifaceted battle over time’. Very differently, Samuel’s strategy was to fully embrace the day-to-day way of life imposed on him through his unsecure residence permit, preventing himself to make too important projects for himself and his family: ‘But, do not worry, we always find a solution. [...] I do not worry anymore because I know there is always a way to go around the problem and secure your stay’⁵ (Samuel, interview extract, 2016). These

types of thoughts and behaviours that people use to manage situations that they perceive to be stressful are described by Folkman and Moskowitz (2004) as ‘coping strategies’.

The concept of ‘legal consciousness’ (Ewick and Silbey, 1998) helps understand how individuals who face similar conditions find different ways to adapt to a given environment. Legality is not only a fixed set of rules and procedures impervious to individual action. Migrants can also use the law instrumentally or act against the law in order to seek their interests. Based on the knowledge they have of the legal framework but also according to the non-legal resources they can mobilise, migrants adopt different positions and strategies to face difficult situations in the host country and develop multiple ways to be agent of their lives (Têtu-Delage, 2009).

To avoid prolonged periods of irregularity, Kevin looked for another legal pathway to remain in Belgium and he ultimately decided to get married with his Belgian girlfriend, although this was not their initial project nor something they wanted.

I started trying to apply for a student visa, and that is a certain level of insanity. [...] I started applying to art schools, and they said: ‘Alright. To go to art school, you need to go to the embassy and you need to apply for a student visa’. I went to the embassy and they said: ‘Well, actually you need a registration to a school [to get a visa]’. [...] And it just became an endless loop, back and forth. So, I came on a tourist visa, which probably was not great, but I did it anyway, and I started going through the process [...] but it did not work. At that point, I started to enrol in language classes and all kinds of stuff to make sure I do not get kicked out. [...] Then, we had a meeting with our lawyer and we talked about my options [...]. [Our lawyer] said: ‘Well, you know, we could file for cohabitation’. That did not work very well. Then, she said: ‘You could get married, but I don’t know if you really want to do that’ and so, for quite some time, we milled around and tried to figure out what we wanted to do, and we eventually settled on the fact that ... we were just going to have to get married! That was going to be the only way this was going to work. Because it was very, very stressful at that point. You start thinking: ‘Okay, is today the day they are going to come for me? Am I going to get the letter in the mail?’. That says, you know, you need to leave. (Kevin, interview extract, November 2016)

The extract also shows how migrants’ social capital – through the mobilisation of their social and personal networks – plays an important role in their agency.

From the respondents’ trajectories (cf. Figure 1), we see that nationals from the DRC stay in an irregular position for longer periods of time compared to Indians and US nationals. Compared to Americans, migrants from the DRC make less frequent use of family reunification or cohabitation in order to obtain a residence permit from within Belgium. This can be explained – in part – by their profile: migrants from the DRC, despite larger and more organised co-ethnic networks, are usually older and already married when they migrate to Belgium (Schoonvaere, 2010). Another reason is that immigration policies are increasingly selective, and distinctions are created among immigrants based on their economic capital – that is, qualifications, income and skills (Goenaga and Ellermann, 2019; Shachar, 2016). This is true for family reunification as well (Kofman, 2018; Sarolea and Merla, forthcoming). Although it is considered as an individual right, family reunification is subject to income-related

conditions that are arguably more difficult to meet for nationals from the DRC. Indeed, they are typically disadvantaged on the Belgian labour market which is characterised by an 'ethnic stratification' (Adam, 2007). Despite their qualifications or professional experience, Congolese nationals are concentrated in specific and low-paid employment sectors, and their unemployment rate is higher than that of all the other nationalities present on the Belgian territory (Schoonvaere, 2010). Additionally, prolonged periods of irregularity can be explained by the Schengen visa policy. Unlike Congolese or Indian migrants, nationals from the USA do not need an entry visa for short stays in Belgium. As a result, they can travel back and forth between Belgium and the USA knowing that they will be allowed to re-enter afterwards as many respondents have told us. Tougher immigration controls thus increase the number of overstayers, in particular among economically disadvantaged groups.

To sum up, although most migrants face temporal constraints over which they have limited control, they can develop coping strategies and tactics in order to mitigate their effects and pursue their aspirations. In fact, Robertson (2015) argues that migrants increasingly develop new forms of agencies and subjectivities in response to new modes of state governance and management in which contemporary international migrations are embedded in. As our data suggest, their ability to do so depends largely on their social, cultural, symbolic and economic capital.

Conclusions

Based on our data, we found that time is a central feature of migrants' experience in Belgium regardless of their specific legal status or nationality: the temporariness of residence permits profoundly influences personal trajectories and aspirations. Immigration controls shape migrants' trajectories and cut them into temporal chunks (Anderson, 2013). Due to legal categorisation and temporary admission, migrants navigate from one status to another which increases the risk of falling into irregularity. As a result, immigration needs to be seen as a complex and possibly fragmented process across time rather than a single act of mobility.

Restrictive policies and complex procedures produce precariousness and irregularity also for those who are legally resident. Migrants' trajectories rarely follow a linear and upward path towards greater security of residence and citizenship. On the contrary, 'chute' is a looming threat. As legal stay is subject to disruptions, temporary migrants share the feeling of living in a situation of liminal legality. It follows that the law does not only define who is legal and who is not but also produces irregularity through temporary and conditional stay.

Because of their legal status, migrants may experience a loss of control over their life-course development and family roles. Being in a position of enforced temporariness and status anxiety, migrants have difficulties to plan their future due to an overdominant present. Hence, while they are supposed to take action for integration, the legal architecture does not create room for them to envisage future perspectives that they would value. There is no clear time frame or fluid transition. On the contrary, migrants are processed in a de-individualising way, jeopardising the positive outcomes of migration.

Unlike citizens, migrants often pursue their projects in a context of high insecurity and uncertainty which goes beyond their own control.

Finally, although immigration laws and administrative practices shape migrants' behaviours and impose specific temporalities, they are not entirely powerless facing legal constraints. Migrants can become actors of their own destiny by reconsidering their relation to the law as they develop coping strategies to pursue their projects. This leads some of them to instrumentally use personal and family decisions in order to safeguard their legal right to stay. This article provides insights on how recent developments in international migration and the changes they bring about cause constant questioning of the legal and political framework at the European and national levels.

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Notes

1. This interview extract was translated from French.
2. This interview extract was translated from French.
3. This interview extract was translated from French.
4. This interview extract was translated from French.
5. This interview extract was translated from French.

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