

Latino Migrant Victims of Crime: Safe Reporting for Victims With Irregular Status in the United States and Spain

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Abstract

In both the United States and Spain, Latino migrants are disproportionately exposed to crime victimization. Among them, those with irregular status are scared to report crime to the police out of the fear of deportation. This article explores how national legislation and local policies in the United States and Spain regulate the possibility of irregular migrants who are victims of crime to interact with the police. We analyze the interplay between immigration and criminal legislation and enforcement structures in the United States and Spain to define whether deportation is a real or perceived risk for victims reporting crime. We identify opportunities for “safe reporting of crime,” and we look at how policy responses in the two countries compare. We find that national legislation in both countries introduced measures aimed at allowing safe interactions between migrant victims and the police. Additionally, in the United States, cities also adopted local “safe reporting” policies. However, despite these existing measures, opportunities for safe reporting remain limited in both countries. We conclude with a discussion on lessons that legislators in the United States and Spain could learn from each other to improve the reporting of crime from victims with irregular status.

Keywords

Latinos, victims of crime, United States, Spain, safe reporting

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Deporting irregular migrants has multiple consequences. One of them is instilling in migrants who are victims of crime the fear of contacting the authorities to report crime. Several studies have shown that victims with irregular status often decide not to report crime or seek protection from the police out of fear of deportation (Kittrie, 2006). In addition to the fear of removal, lack of knowledge of the language and legislation of the host country, social isolation, and psychological and cultural barriers contribute to discouraging interactions with the police (Messing et al., 2015; Reina et al., 2014).

This article explores the possibilities in law and practice for crime victims with irregular migration status to safely interact with the police in the United States and Spain. In particular, by analyzing the legislation regulating the process of crime reporting for irregular migrant victims, we aim to answer the question “Do law and practice in the United States and Spain enable crime victims with irregular migration status to safely interact with the police?” In particular, we use the term *safe reporting of crime* to indicate those legal and practical measures that could enable irregular migrants to report crime without exposing them to immigration enforcement and thus encourage crime reporting from this group.

The (im)possibility for irregular migrants to interact with law enforcement authorities is an issue that affects the lives of many Latinos in both the United States and Spain. In the United States, about 13.5% of the 60 million Latinos are estimated to have an irregular status (Passel & Cohn, 2019), and in Spain, estimates reach 12% of the 3 million Latinos living in the country (Gálvez-Iniesta, 2020). According to the National Crime Victimization Survey, in 2018 14% of all violent crime incidents in the United States involved Latino victims (Morgan & Oudekerk, 2019). In Spain, available data do not refer to all types of crimes, but reports of the Interior Ministry show that, in 2018, 13.5% of the victims of gender-based violence and 9.4% of the victims of sexual violence were Latin American (Ministerio del Interior, 2018). Several studies have revealed that Latino migrants, especially those with an irregular status, are disproportionately exposed to victimization, pointing at the links between their fear of contacting the police and the recognizability as members of an ethnic minority often linked to irregular status. A combination of factors portrays Latino migrants as easy and low-risk targets for any sort of crime, including interpersonal and gender-based violence, workplace victimization (Bernat, 2017), violent and property crime. A case in point is that of the “walking ATMs,” that is Latinos who have disproportionately been targets of robbers who associate the victims’ ethnicity to irregular status, and therefore assume their target to carry significant amounts of cash (given irregular migrants’ difficulties of opening a bank account) and that they would not report the crime for fear of removal (Barranco & Shihadeh, 2015). Reina et al. (2014) showed that an irregular status is a major factor affecting Latina victims of domestic violence decision to report and that domestic violence perpetrators consciously rely on the deportation threat as a control method, perpetrate repeat victimization, and avoid prosecution. A study on Latinas’ perception of law enforcement also revealed that as fear of deportation (and unfair treatment by the criminal justice system) increases, Latinas’ willingness to report decreases. The same study found that the relationship between deportation fear and willingness to report crime no longer existed when Latinas trusted

the police would not use excessive force, a finding pointing at the relevance of safe interactions with the police (Messing et al., 2015). This confluence of factors results in a systematic underreporting of crime from victims with irregular migration status, with important consequences not only for victims' protection but also for public safety and the efficiency of law enforcement, as perpetrators go undetected and free to repeat crime (Gutierrez & Kirk, 2015). With particular attention to "Hispanic" irregular migrants in the United States, Comino et al. (2016) estimated that these irregular migrants are four times less likely to report a crime than "legalized migrants" (11.2% vs. 38.7%) showing a direct link between crime underreporting and irregular status.

In general, irregular migrants are formally excluded from policies on integration. Yet ensuring access to certain rights for all individuals responds to public interests. Accordingly, policy, institutions, and opportunities for association do provide some means of informal and formal inclusion for irregular migrants (Cook, 2013). Legislation and practice facilitating safe reporting follow this pattern, as they respond to the public interest of tackling crime underreporting and protect crime victims. With this study, we aim to contribute to the broader, yet little explored, debate on the integration (or, as some prefer "incorporation") of irregular migrants through the "multiple yet limited ways in which unauthorized migrants are recognized in law and practice" in virtue of their presence, rather than their status (Cook, 2013, p. 44). If "integration" is conceptualized as "processes of interactions, personal and social change among individuals and institutions across inter-related areas of life," and the possibility to interact with institutions is a key "effector" affecting on the possibility to integrate (Spencer & Charsley, 2016), what does the (im)possibility of safely interacting with the police say about the potential for victimized Latino migrants in the United States and Spain to integrate? It is evident that understanding the legal and practical possibility of victimized Latinos with irregular status to safely interact with law enforcement authorities constitutes a key premise to explore their potential to integrate. We offer the legal background for future studies to explore integration outcomes for victimized irregular migrants. Ultimately, the analysis of two countries allows us to extrapolate comparative lessons for policy in both countries, responding to a stated policy need of the European Union to assess tools to improve reporting of crime and access in order to support services for migrant victims independent of their residence status (European Commission, 2020).

Method

The data for this article come from a larger research project of the University of Oxford's Centre on Migration, Policy, and Society (COMPAS) exploring law, policy, and practices surrounding safe reporting of crime in the United States, Belgium, Italy, Spain, and the Netherlands, and assessing the legal and political replicability of U.S. experiences within European contexts. This article in particular is based on research conducted by the authors in the United States and Spain between December 2018 and June 2019. The study was carried out in two phases. A first extensive review of the legal and policy frameworks surrounding crime reporting involved an

in-depth analysis of criminal, immigration, and constitutional legislation, as well as the immigration and criminal law enforcement structures of both countries. Desk research on the academic and policy literature on “safe reporting” and “sanctuary cities” was extensively conducted for the United States, where the academic debate on these issues is well-established. On the contrary, in Spain, research revealed that “safe reporting” is a largely unexplored issue (in line with the other European countries in the same project), unveiling a knowledge gap in Europe, which our studies aim to address. The second phase involved in-depth semistructured interviews with 24 informants (14 in the United States and 10 in Spain) selected according to their expertise in the reporting and prosecution of crime involving migrant victims, the usage of special visas and other protective measures for migrant crime victims, relevant local policies, and their contacts with migrant victims of crime. The range of informants included government representatives, public prosecutors, law enforcement officials, local authorities, civil society, attorneys, and one academic expert.

Immigration and Criminal Law Enforcement in the United States and Spain: What Space for “Firewalls?”

One way for the law to establish safe reporting mechanisms is to introduce “firewalls.” Firewalls are described as measures that strictly separate immigration enforcement activities from public service provision, criminal justice, or labour law enforcement, to ensure that irregular migrants are not discouraged from accessing essential services or reporting crime (Crépeau & Hastie, 2015). A “firewall” ensuring safe reporting would prevent that crime reports lead to the detection of the victim as an irregular migrant or that their personal details are communicated to those in charge of immigration enforcement. Kittrie (2006) observed that firewalls generally operate according to a “don’t ask, don’t tell, or don’t enforce” model, by prohibiting or limiting the possibility of crime enforcement officers to inquire about the immigration status of the person they are interacting with (“don’t ask”), and/or communicate information about someone’s immigration status to immigration enforcement authorities (“don’t tell”); and/or arrest or detain individuals solely for a violation of immigration law; comply with requests from immigration authorities; or use own resources to comply with such requests (“don’t enforce”). In both countries, federal and national legislation does not provide for a generalized firewall policy applying to all police bodies. It is however of paramount importance to understand who are the authorities in charge of taking in crime reports and those in charge of immigration enforcement, in order to understand the interplay between these and the possibility of establishing firewalls.

In the United States, the country’s federal structure establishes a strict separation between the actors responsible for immigration and criminal law enforcement. Immigration enforcement is the monopoly of the federal government, mainly through its U.S. Department of Homeland Security. The postentry enforcement of immigration laws is delegated in particular to a dedicated subagency known as ICE (U.S. Immigration and Customs Enforcement). Criminal law enforcement instead largely falls within the realm of state and substate competences, with federal jurisdiction

over criminal matters being restricted by the U.S. Constitution to limited areas. Concomitantly, the power to police and enforce criminal legislation is largely left to the states and most often delegated by the states to county and municipal police. These constitute the lion's share of police authorities, with about 12,695 municipal and county police departments and 3,066 sheriff's offices (Hyland, 2018) out of the U.S. 18,000 enforcement agencies.

These division of competences at different governance levels, and the independence of local authorities from the federal government in regulating their enforcement agencies (constitutionally protected by the Tenth Amendment), have allowed several localities, commonly described as "sanctuary cities," to establish "local firewalls"—with at least a "don't ask," "don't tell," and/or "don't enforce" component. For example, the San Francisco City Administrative Code (Sec. 12H.2) states,

No department, agency, commission, officer or employee of the City and County of San Francisco shall use any City funds or resources to assist in the enforcement of federal immigration law [*Don't enforce*] or to gather [*Don't ask*] or disseminate [*Don't tell*] information regarding the immigration status of individuals in the City and County of San Francisco.

The term *sanctuary* often fed the misconception that sanctuary cities provide deportable migrants with a "sanctuary" from any form of immigration enforcement. In reality, sanctuary laws do not prevent in any way federal officials from enforcing immigration rules; they simply restrict the possibilities for local officials to get involved in the enforcement of rules, which fall within the remit of federal authorities. As confirmed by interviews with city officials (4) and local enforcement authorities (5) in New York and San Francisco, the main rationale for a city to implement noncooperation policies is ensuring safe interactions between irregular migrants and the local police and reassure migrants that when they report a crime they won't be reported to ICE or arrested for immigration enforcement purposes.

Whether these policies are effective in reassuring migrants and increase crime reporting is, however, debated. Promoters of sanctuary cities have been accused of not being able to provide data on the correlation between their policies and increases in reports or decreases in crime. In fact, proving a direct correlation is challenging, as "don't ask" policies proscribe the gathering of information on the status of people reporting crime. In 2017, however, the first systematic statistical analyses comparing the violent and property crime rates in sanctuary and nonsanctuary counties found that crime is statistically significantly lower in sanctuary counties. In particular, the study found that there are, on average, 35.5 fewer crimes committed per 10,000 people in sanctuary jurisdictions compared to nonsanctuary ones, with large central metro sanctuary counties having 65.4 crimes fewer per 10,000 people than large central metro nonsanctuary counties (Wong, 2017).

While this statistical analysis cannot show a direct correlation between sanctuary policies and crime reporting, it supported the argument that communities are safer in cities where the local police are not entangled in immigration enforcement. Our interviews with providers of legal support to migrant victims tended to confirm that local

noncooperation policies foster safe interactions, as sanctuary policies in both New York and San Francisco play a central role in encouraging their clients to report crime. Four NGO interviewees generally found the policy to be helpful in their work supporting migrant victims. They tended to trust that officers of the New York and San Francisco police departments would not report victims to ICE, and this trust is passed on by the NGOs that communicate the policy to the immigrant communities to encourage interactions with local police.

However, although the number of sanctuary cities is significant, is rising, and includes most U.S. larger cities (Immigrant Legal Resource Center, 2018), not all localities adopt noncooperation policies. On the opposite, some localities entered in cooperation agreements with the federal government, under the framework of the “287(g) program,” to deputize immigration control to local police officers. Therefore, safe interactions may be formally possible in some parts of the United States but not in others. Even in cities with sanctuary policies, safe interactions can be jeopardized by shortcomings in the implementation of the policy. Several studies identified a general unawareness of sanctuary policies related to poor publicization, which in practice nullifies their effectiveness in spreading trust in migrant communities (Kittrie, 2006). Noncooperation policies might be confusing for migrants, as sanctuary jurisdictions may be neighboring localities that do not have sanctuary policies, or have policies of active cooperation with ICE (Carlberg, 2009), leading to situations where contacting one police station rather than the other might result in opposite outcomes. In addition, the lack of proper training of some officers may nullify the policy’s effectiveness, as one mistake from a police officer (and the subsequent word-of-mouth within migrant communities) can have long-lasting detrimental effects on trust.

In Spain, contrary to the United States, both criminal and immigration law enforcement fall exclusively under competences of the central state. The National Police is responsible for general policing and public security in urban areas and on specific issues, including immigration enforcement. Within the National Police, the *Comisaría General de Extranjería y Fronteras* is in charge of migration control and operates through provincial suboffices, the Provincial Foreigners Brigades, whose officers are the only ones entitled to initiate immigration enforcement procedures and enforce removals. Detection as an irregular migrant by these police officers, in any context including after reporting a crime, may therefore lead to a deportation proceeding. The National Police, however, is not the only police force in Spain. *Guardia Civil* (in charge of public security in rural areas and some other specific issues) is another national force. Three regions have their own police forces: Catalonia, the Basque Country, and Navarra. All three are the “ordinary” police forces in their territories in charge of public security, criminal investigations, and judicial matters, but not of migration control. Almost 2,000 local police forces are also operational, with powers limited to administrative policing and traffic control (but can also support national and regional police forces in ensuring public security). However, in contrast with the United States, these police bodies are not independent from national institutions. Regional and local police have duties to collaborate with the National Police, according to the principles of collaboration and mutual trust established by the Spanish

Constitution. Therefore, no space is left for local firewalls inspired by the U.S. experience of sanctuary cities.

The interplay between the different police forces and officers in charge of migration control is not ruled in legal provisions but in protocols. These are binding for the police forces that have signed them, and potentially could accommodate the inclusion of a firewall. Not all protocols are public, but interviews with the local police of Barcelona, the regional police of Catalonia, and the National Police served to outline their content. According to existing protocols, local, regional, and state police officers with no competences on migration need to report the presence of irregular migrants to National Police officers only in two cases: when a migrant is detained for criminal reasons, or when it is not possible to determine the identity of an individual stopped by the police. In all other cases in which the migration status of a foreigner is not clear, the existing protocols do not require communications to the National Police, even if there is evidence of an unauthorized presence.

This implies that unless they fall within one of the mentioned cases, irregular migrants contacting “ordinary” police officers to report crime should not be reported to the Foreigners Brigades. In fact, two interviewees of the Catalan regional police and the National Police mentioned that officers conduct outreach activities to inform migrant communities that victims can report crime without fear of removal. This practice, however, is not based on a legal provision and cannot be considered as general policy. In fact, the 2019 Report of the Spanish Ombudsman for the first time dedicated a special section to “unsafe” reporting of crime, revealing that some victims were subjected to deportation proceedings (Defensor del Pueblo, 2020). Previously, the Ombudsman denounced that police officers appear to not always be properly trained on the rights of migrant victims, including victims of trafficking (Defensor del Pueblo, 2012). Two civil society interviewees also mentioned cases of irregular migrants being detained and put into deportation procedures after being in contact with ordinary police officers, in apparent breach of the protocols. Protocols therefore do not seem to guarantee a firewall, which would instead require national legislative action.

Immigration Relief for Certain Victims of Crime: The Exceptions to the Rule?

Besides ordinary rules, national legislators on both sides of the Atlantic have, at times, recognized the need to address the negative impact that the deportation threat has on migrants’ willingness to report crime. Both countries have adopted legislation aimed at breaking this dynamic by offering “relief from immigration enforcement” through special “victim visas” or the suspension of enforcement proceedings for victims reporting certain crimes.

In the United States, a few measures have been introduced at the federal level, including the “VAWA self-petitions” for victims of domestic violence on a status dependent on a U.S. citizen or permanent resident, or the “Special Immigrant Juvenile Status” for certain abused minors (Delvino, 2019). However, the main example of relief from immigration enforcement for victims with irregular status is offered by the

U and the T nonimmigrant statuses, commonly known as the “U and T visas,” introduced by the Victims of Trafficking and Violence Prevention Act (2000) with the stated double aim of strengthening law enforcement agencies’ ability to investigate and prosecute serious crimes, and offering protection and humanitarian relief to victims. Both visas operate as “exceptions to the rule” by rewarding irregular migrant victims with 4-year residence permits (convertible into a green card) if they are helpful (or likely to be helpful) to law enforcement in the detection, investigation, prosecution, conviction, or sentencing of the crime (for the U visa) or if they comply with any reasonable request for assistance from a law enforcement agency in the investigation or prosecution of human trafficking (for the T visa). The T visa is specifically issued to victims of sex or labor trafficking. The U visa, instead, has a significantly broader scope, as it applies to victims of a comprehensive list of crimes, including, among others, several forms of felonious and sexual assaults, domestic violence, abductions, blackmailing, murder (for indirect victims), perjury, as well as “similar activities.” The expansive scope of the U visa is its most distinctive feature vis-à-vis equivalent forms of residence permits in Europe, which instead apply only to very specific crimes or situations (Fundamental Rights Agency, 2015). The process to obtain T and U statuses is initiated and led by the victims themselves, who apply to the U.S. Citizenship and Immigration Services, which in turn decides on the basis of the evidence provided and through a regulated process, thus reducing the risk of discretionary decisions. To ascertain the victim’s helpfulness and cooperation in the detection, investigation, prosecution, conviction, or sentencing of the crime, victims must obtain a certification (for the U visa) or a nonmandatory declaration (for the T visa) from law enforcement officials.

In Spain, immigration law establishes four situations where victims with irregular status may be relieved from immigration enforcement: (a) victims of human trafficking; (b) victims of gender-based violence; (c) victims, witnesses, or harmed persons who cooperate in the fight against organized crime related to human trafficking, labor exploitation, or sexual exploitation; and (d) occasionally, other victims who cooperate with police, judicial, and administrative authorities in cases not related to organized crime. In practice, the last two are tools of law enforcement that authorities use with broad discretion to encourage cooperation from crime informants, rather than victims. Instead, in cases of trafficking and gender-based violence, the law establishes a non-discretionary, automatic, and immediate suspension of any immigration procedure following a crime report, which is testament to these measures’ protective nature and their potential to encourage safe interactions. In particular, immigration enforcement cannot be initiated and existing removal procedures must be stopped immediately as the police receive information about a potential case of gender-based violence. If the crime report is then followed by a “protection order,” or the prosecutor confirms evidence of violence, the victim can directly apply for a provisional residence and work permit, released automatically, and convertible into a 5-year residence and work permit if a judicial sentence confirms the violence. In trafficking cases, the suspension starts as soon as a police officer believes a person to be a potential victim of human trafficking, irrespective of the victim filing a crime report. A “reflection period” is then

offered for the victim to consider whether to report the trafficking. The suspension is followed by an “exemption declaration” released on the basis of the victim’s personal situation or their cooperation with the authorities. This declaration cleans the previous immigration record and enables the victim to apply for a residence and work permit, initially provisional but then convertible into a 5-year permit based on cooperation or the personal situation of the victim (González Beilfuss, 2019).

In both the United States and Spain, relief from immigration enforcement applies to only certain victims of crime. Yet these experiences show how great the potential is to offer a lifesaving path to protection and crime reporting by breaking the deportation threat dynamic. In the United States, in the past decade, U status was granted to at least 85,000 victims who were thus enabled to report crime and cooperate with the authorities. The approval rate for U visa applications has constantly been over 80% (Delvino, 2019), testifying to the generally genuine nature of U visa applications. These numbers, however, could have been considerably greater considering that federal legislation imposed a cap of 10,000 U visas per year. This has led to an immense backlog of around 135,000 pending applications (Delvino, 2019), showing a great imbalance between the number of applications and the limited availability of visas, as imposed by the annual cap. Given the backlog, current U visa applicants need to wait several years before receiving any immigration benefits. Interviews with four nonprofit attorneys assisting irregular migrants with U visa procedures in New York and San Francisco revealed that their clients obtaining conditional approvals and deferred action in 2019 were those who filed their applications 4 to 5 years before. During this waiting period, applicants are exposed to removal as if they had never filed an application—no matter their eligibility—which could lead them to stop cooperating and go back into the shadows. In fact, although the U visa program has shown its effectiveness in fostering interactions between migrant victims and law enforcement, the cap is undermining the main purpose of the program, which is to make victims feel safe in reporting crime by providing them with immigration benefits.

In Spain, 11,546 permits were issued for victims of gender-based violence in the period 2005-2018 (González Beilfuss, 2019). No caps limit this measure, which depends mostly on the decision of the victim to report. As for trafficking, between 2013 and 2016, only 877 victims were identified in Spain, and in the period 2012-2017, only 293 residence permits were issued to victims and their children (GRETA, 2018).

Among the reasons for the success of the U visa is the extensive list of crimes it applies to and, importantly, the possibility for victims (and their attorneys) to apply directly to the U.S. Citizenship and Immigration Services through a regulated process, rather than leaving it to authorities as a discretionary law enforcement tool. This necessarily allows predictability of outcomes and encourages victims to come forward, which may explain the significant numbers of U visas compared with low numbers in those European countries where equivalent residence permits are left to the discretion of authorities (Fundamental Rights Agency, 2015). In fact, where discretion comes into play, limitations are also found in the effectiveness of the U visa program. Cade and Flanagan (2017) denounced the geographically inconsistent implementation of the U visa program due to law enforcement officials’ discretion in

denying the certification of the victims' helpfulness. Lack of proper and coordinated training for officers translates into a situation where certain police department are very active in releasing U visa certifications, and others discretionarily dismissing them, sometimes for reasons such as officers' lack of knowledge on the program or personal views on immigration.

Similarly, in Spain, it is the certainty of outcomes given by the automatic (and therefore nondiscretionary) suspension of immigration procedures that could have determined the successes of the permits for victims of gender-based violence. Discretionary outcomes may, conversely, offer one explanation for the lower numbers of residence permits for trafficking. Indeed, although the suspension of immigration procedures should be automatic here too, the effective identification of a person as a trafficking victim is left to the discretion of police officers. In fact, while protection is theoretically not conditional on the victim's report or cooperation, in practice, police officers tend to require some level of cooperation to activate the protective measure, thus raising the concerns of human rights observers that police officers may not be properly trained on these issues (Defensor del Pueblo, 2012).

Conclusion

Irregular status and victimization are conditions that affect the lives of millions of Latino migrants in the United States and Spain. The two conditions are strictly linked as irregular status exacerbates exposure to crime victimization to the point of affecting all visually identifiable Latinos irrespective of migration status. By analyzing laws and practices in the United States and Spain, this article aimed to show whether the deportation fear preventing many migrants from feeling safe in interacting with the police is supported by an actual risk of deportation or whether, instead, law and practice provide shields that could reassure victims with irregular status that they can safely contact the police to report crime. Our analysis shows that, despite formal instances of inclusion in law for victimized migrants, neither the United States nor Spain have general "firewalls" at the federal or national level providing such reassurances. Instead, we found that safe reporting measures exist only as exceptions to ordinary rules. This may ultimately prevent victimized irregular migrants, including Latinos, from the possibility of safely interacting with law enforcement authorities.

Sanctuary policies in the United States can prove key in ensuring safe interactions but (besides their effectiveness being still debated) their scope remains limited to certain localities, leading to geographic inconsistencies and confusion. At the national level, in both countries, existing instances of formal inclusion suffer from several formal and informal limitations. In Spain, the issue is only partially, ambiguously, and indirectly defined in little-known police protocols, and practice shows that these don't always ensure that victims are not deported for reporting a crime. In the United States, the U visa has the potential of representing a wide-reaching instrument to foster safe interactions, given the broad and expansive list of crimes it applies to. However, its statutory annual cap (and the processing delays related to an immense backlog) seriously threatens the visa's effectiveness in reassuring victims that they won't be

deported while they await responses on their applications. In Spain, instead, the suspension of immigration enforcement is automatic, thus proving highly effective in ensuring an immediate and safe outcome of reporting crime, but such possibility stays strictly limited to cases of gender-based violence and trafficking. A comparative look therefore suggests that in the United States, an immediate “deferred action” for U visa applicants could be inspired by the Spanish automatic suspension; on the other hand, the successes shown by the numbers of crime reports from U visa applicants could encourage Spanish legislators to extend its own safe reporting measures to englobe a much wider set of crimes.

Existing safe reporting measures aim to “incorporate” irregular migrants to encourage crime reporting. They thus have the potential to ensure safe interactions. However, besides remaining limited to some exceptions, existing measures in both countries also suffer from insufficient and geographically inconsistent implementation, mostly due to high levels of discretion of police officers—sometimes coupled with poor training of officials—which ultimately preclude victims from being able to predict the outcome of their decision to report crime. Lack of predictability ultimately affects the effectiveness of existing mechanisms, leaving migrant victims unable to feel “safe enough” to actively seek interactions with the police. Given that the possibility of safe interactions, from a legal point of view, stays the exception to the norm, investing in uniform and proper training of relevant police officers on existing safe reporting mechanisms is only a point of departure to, at the very least, ensure the effectiveness and uniform implementation of existing measures. Ultimately, safe interactions could only be fostered through national legislative actions adopting nondiscretionary general firewalls and/or immigration relief encompassing a far wider scope of criminal cases.

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