

European network against racism

ENAR Shadow Report 2008

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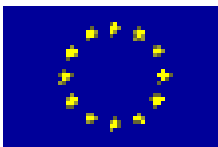
Racism in Spain

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Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it. Even where there is extensive official data, NGOs offer a vital alternative data source that comes directly from experiences of those individuals and communities experiencing racism on a daily basis.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to offer an NGO perspective on the realities of racism with the EU and its Member States. NGO reports are, by their nature, based on many sources of data, official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by the racism that is the subject of the research. It is this that gives NGO reports their added value, complementing academic and official reporting.

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I. Executive summary

For one more year, the present report drafted by the coordination of the Spanish network ENAR, analyses the situation of racism in Spain. Foreign citizens are still victims of discrimination and enduring extreme racism.

The economic crisis has worsened the political and media discourse towards foreign citizens. This has caused thousands of migrants to be in an irregular administrative situation after losing their jobs that allowed the renewal of their work and residence permits.

We want to emphasize vulnerable groups such as foreign women who are being subject to trafficking for sexual exploitation, as well as unaccompanied minors, and foreign citizens who survive by selling music and DVDs on the street.

It is worth recalling that the European Commission denounced the Spanish government for not providing enough support to victims of trafficking who cooperate with the judicial system, particularly in regards to their administrative status.

This discrimination is manifest throughout every social sphere that may relate to employment, to the access of housing, health or education. In many cases, it is often difficult to detect cases of social and institutional racism given that habits and regularity make them invisible. This year, racism has gained a lot of significance in political and media speeches because of the election campaign and economic crisis.

But, verbal and physical racism continue to be a serious problem, and its magnitude remains unknown due to the lack of public records and the deficiency of institutional support towards victims.

The lack of institutional support towards victims of racism and of the existence of awareness campaigns is due to the lack of public policies against discrimination. To achieve this, a strategic plan must be implemented and the political discourse that is implicitly racist must come to an end.

This requirement is also necessary to carry out a migration policy that respects human rights of all citizens without any concern for their nationality and administrative situation/legal status. It is unacceptable that immigration policy has suffered because of the major political parties' electoral interests and government interest in times of crisis. The reform of the immigration law was presented in the media in anticipation of the social response without any prior notice to the organizations.

The reform prevents family reunification, it sanctions all solidarity with illegal citizens and it facilitates the deportation of unaccompanied minors.

The only positive aspect of the reform is the recognition of the right of assembly and manifestations of foreign citizens in an irregular situation; it is the result of a Constitutional Court decision.

But, in any case, the political class can not focus its policy relating foreign citizens only in migration and immigration, but it must consider that any policy against crises and social exclusion must integrate all citizens, whatever their nationality or administrative status.

The citizens must not accept that politicians and the media use racism in order to confront them instead of facing together all the social problems.

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III. Introduction

For another year ENAR's national coordination network has presented a report on the situation of racism in Spain during 2008. This report summarizes all developments and events relating to racism during that year, and highlights key information and statistics, as well as the analysis of the public administrations principle guidelines on this matter.

In 2008, Spain's general elections took place, and marked the changes within immigration policy and mass media discourse. But, the economic crisis took absolute center stage. After the general elections took place in March, the political class and media were used to harden both the political discourse and migration policy. As a result, the year ended with the announcement of the first rough draft of the immigration law amendment.

For one more year, the report centers itself on communities that are vulnerable to racism, fundamentally in racism towards education, accessing housing, but also on racial violence and the manner in which the media treats the information.

Secondly, it makes a relation and an analysis of public policies beginning with migration, the fight against discrimination and social exclusion, as well as the Justice Administrations answer towards racism.

Given the lack of public information in Spain about racism, we consider that the presentation of this report is of great importance and that it is absolutely necessary. Civil society has to fight against damages caused by racism given the fact that it is a form of discrimination that concerns all. But also, it is the responsibility of all to insist to Public Administrations that there is a need to take responsibility and be accountable for their obligation to fight against racism.

This report has been made with the work of many member organizations of the ENAR network such as: CEAR, SOS RACISM, Federation of Progressive Women, Movement against the Intolerance, Assembly of Cooperation by La Paz, IEPALA and the association Pro Human rights of Andalucía; which has generated without a doubt an interesting mixture and blend of ideas, information and analysis. Undoubtedly, this is one of the many benefits of the network and it is necessary for a desirable future in the fight against racism.

IV. Communities vulnerable to racism

IMMIGRANTS:

Spanish society is increasingly becoming a multiethnic and intercultural society. This has been showed by statistics from the Department of Labour and Immigration, on December 31, 2008. The total numbers of foreigners throughout the country are 4,473,499 with a residence card or permit, from which 2,059,252, 46.03% are women.

The number of foreign citizens who are in an irregular administrative situation is completely unknown due to the fact that it is no longer part of the debate and interest of Spanish politicians. Following the 2005 regularization process, foreign citizens continue to be in an irregular situation facing social marginalization, as well as political and economic exclusion. Both the political and media discourse continue to divide foreign citizens because of their administrative situation, presenting “the regulars” as those worthy of being "integrated" and “the irregulars” as victims of exploitation and the trafficking gangs, and therefore only worthy of an expulsion procedure.

Due to the lack of effective protection of crime victims, the European Commission denounced Spain in March 2008 to the European Court of Justice in Luxembourg. According to the EU, despite having been granted a two year period, nothing has been done in Spain to incorporate a directive that obliges residence and that “ensures the survival and protection” to undocumented non Europeans who have been exploited by networks of human trafficking or who have collaborated with the Justice Department in order to dismantle these groups.

The Commission stated before the Luxembourg court that Spain was violating human rights, and argued that the Spanish Executive "have not adopted laws, regulations and administrative changes" implementing the 2004/81/EC directive, despite the deadline granted in April 2004 to change the rules by August 5, 2006

In order to fully implement this directive, Spain would have had to amend article 59 in the immigration law. This provision only establishes the possibility (not the obligation) for illegal immigrants "to be exempted from administrative responsibilities" and "not be removed" if they provide "essential information or testify" against the Mafia.

The current economic crisis is causing many foreign citizens who are in a legal situation to lose their documentation due to the lack of work. It is obstructing the renewal of residence permits and work permits. Many outsiders are entering a

situation of illegality. For example, the situation in Andalusia has worsened with unemployment among immigrants increasing by 74 percent¹.

In 2008, the Government authorized 30,000 family regroupings less than the previous year and granted 50,000 less work and residence permits. Last year, the economic crisis did not destroy jobs held by immigrants. Furthermore, these increased to 10,000, according to the Labour Force Survey (LFS) during the quarter of 2008². If unemployment increased amid the 450,000 foreigners it was because new assets were incorporated into the Spanish labour market. It was not caused by people who arrived illegally, but more so by those who had obtained family reunification, women seeking employment because their partners had lost theirs or teenagers who had entered the work age. The economic recession revealed their presence³.

The same as it happened in times of economic boom, the only positive message towards immigration in Spain was an economic one, for its contribution to Social Security. But now in times of crisis, it is evident that the discourse on citizenship and protection, so that in crisis periods they would not become scapegoats, is really missed.

Throughout the year a clear legal defense of foreign citizens in an irregular situation that want to appeal to the courts against an administrative decision of expulsion by legal aid lawyers has been manifested in more than one occasion. Justice is demanding a new description or "empowerment" by the interested party directly towards the lawyer, in case they do not admit the appeal. This is very normal in cases where the foreigners have actually been deported or sent back to their countries. The General Council of Spanish Lawyers has criticized the measure, considering that Spain faces a grave violation of the right to an effective judicial protection⁴. Behind this, one can sense the desire of the Administration of Justice to reduce the number of claims before the justice system is overloaded.

We must make a special mention to the discrimination that foreign citizens have been suffering, known as Mantero, selling music CDs and DVD movies recorded in the streets in order to get a minimum income to survive. According to the Prisons General Directorate⁵, in 2008 there were about fifty-one people imprisoned for crimes against intellectual property, the vast majority of them came from sub-Saharan Africa. At present moment, Article 270 of the Penal Code contains sentences between six months and two years of imprisonment and substantial fines for those who play plagiarize or distribute any work without permission.

¹ <http://www.inmigrantesenespana.com/paro-inmigrantes-en-espana-aumento-andalucia-2008-inmigracion>

² National Institute of Statistics, 2008 Report.

³ Immigration at the crossroads. Yearbook 2008, published by the Fundación Ortega y Gasset and the CIDOB

⁴ www.cgae.es/porta1CGAE/archivos/ficheros/1235991550380.pdf

⁵ <http://www.elmundo.es/elmundo/2008/10/16/madrid/1224178834.html>

Therefore, a platform supporting "Mantero" launched a campaign for the decriminalization of recorded music street sales. It is reported that this type of crime and conviction of these people is just another way to criminalize poverty⁶.

REFUGEES

In 2008, 4517 people managed to seek asylum, the lowest figure since 1989. And more than half admit their requests were pending. Only 151 gained refugee status. Meanwhile, conflicts continue to aggravate, the forms of persecution evolve and become more sophisticated, weapons and agents increase pursuers. New forms of persecution have been presented in the cases of asylum in Europe, such as persecution based on sexual orientation or gender identity, being trafficked for sexual exploitation and labour as well as female genital mutilation or forced marriage⁷.

2008 was of great importance given the fact that the asylum law reform began to be known. Even as it reflected a positive element of an equal system of subsidiary protection or the launch itself of supplementary protection, there are several negative factors such as the constant denial of asylum to citizens of the European Union, the loss of influence of the United Nations High Commission Refugees or the establishment of special procedures. The Spanish Commission for Refugee Aid, a member of the ENAR network, carried out major lobbying efforts with the authorities and the legislature.

TRAFFICKING WOMEN

According to sources at the Department of Interior, nearly 90% of female prostitutes in Spain are foreigners. A very high percentage of these would be under the control of trafficking networks.

To combat women trafficking for sexual exploitation, the Department of Equality established a comprehensive program⁸. One member of our network, the Federation of Progressive Women, performed an important and comprehensive report on trafficking in women for sexual exploitation in which they performed a quantitative and qualitative study conducted through a questionnaire answered by more than 70 women victims of trafficking⁹.

⁶ http://transfronterizo.at.rezo.net/spip.php?page=respuestas&id_form=4&id_article=90 have collected over 7,000 signatures

⁷ Annual Report 2008 "Spanish Commission for Refugee Aid" (CEAR)

⁸ "Plan integral de lucha contra la trata de mujeres con fines de explotación sexual; ver <http://www.migualdad.es/noticias/pdf/PlanIntegralcontraLaTSHES.pdf>

⁹ "Trata de mujeres con fines de explotación sexual: informe de la Federación de Mujeres Progresistas: año 2008. ver <http://www.fmpcontraexplotacionsexual.org/inicio.php>

UNACCOMPANIED MINORS

Undoubtedly, one of the most vulnerable communities to racism, discrimination and abuse of their rights are unaccompanied minors. This collective arrives mainly from Maghreb and sub-Saharan Africa. Although the minors' protection legislation believes that one should not discriminate against children because of their nationality, foreign unaccompanied minors are being treated as immigrants and not as children.

Spanish authorities, both state government and autonomous governments that protect minors are trying through every possible means to deport a child to its country of origin. Legislation on aliens allows for the return of unaccompanied children, after listening to a child, following a psychologist report, and only if the child's family has been contacted or has a system capable of protecting minors.

During 2008, the international organization "Human Rights Watch" drew a report on the situation of unaccompanied minors in Spain. It follows the report of Andalusia, a region that is often used as an entry place for immigrants, "the authorities have stated that Morocco intended to repatriate up to 1,000 unaccompanied children who remain in their custody, saying that all guarantees are met¹⁰."

According to Human Rights Watch "Spain is putting at risk the integrity of unaccompanied children who enter the country illegally and that they should provide legal assistance to juveniles as they do with adults.¹¹" However, the Spanish government paid no attention what so ever in its report to the repatriation of minors entering the country without parents or caregivers as stated by investigations carried out by Human Rights Watch and other organizations.

The organization Human Rights Watch calls on the Government to provide legal assistance to all unaccompanied minors in the course of a repatriation procedure, also to adopt regulations that establish governments obligation to conduct certain determinations towards the child's best interests and a risk assessment before making a decision of repatriation and to establish monitoring procedures.

This lack of legal aid has had significant and serious consequences in regards to children deportation cases to their home countries because the necessary requirements have not always been respected or completed before their repatriation.

The Spanish Ombudsman has documented cases in which there was no real contact with the authorities of the country of origin when the child was to be

¹⁰ "Return at any cost", Human Rights Watch

¹¹ Idem

repatriated¹².

The Constitutional Court ruling in December 2008 was another important precedent because it recognized children's right to defend themselves in court even if their guardians decision differs. "It should enable any child with sufficient maturity and ability, to urge the courts to defend interests that affect them personally; even it is against the will of those who exercise their legal representation."¹³

On the other hand, significant abuses with regards to obtaining documents and foreign children protected have occurred. Certain Autonomous Communities such as Madrid, Melilla or others prevent access to documents, hamper and constrain their obtaining¹⁴.

It is also a very delicate situation for former minors, because although the law provides the possibility of granting a residence permit, in many regions they are left without any documentation.

The situation of unaccompanied children throughout school reforms is particularly serious this applies to those who are punished because they have committed a crime.

In March the government of Morocco signed an agreement with Spain on the repatriation of unaccompanied minors.

The agreement stipulates that Spain will take over the financing of measures for the protection and repatriation of unaccompanied minors and in supporting all prevention efforts, especially those that promote the socioeconomic development of regions with strong potential of Moroccan migration.

Both parties under the agreement undertake to facilitate the repatriation of Moroccan unaccompanied minors, complying with the existing laws and also the international conventions on protection of minors. It is important to note that in 2006, UNICEF advised against building a protection center for children in Morocco. Out of more than 33 children interviewed by UNICEF, 90 percent suffered assaults and beatings by the Moroccan police.

This agreement foresees both children repatriation to his/her family or to social centers for the protection of children. Therefore, through its cooperation funds the Spanish State is trying to finance a children national protection system.

In February 2009, the Ombudsman presented a report on Spanish Minor Protection Centers with behavioral disorders and difficult social situations. Most public agencies do not consider necessary to obtain a judicial authorization for minors to be placed in protected places that develop specific programs for the

¹² "Annual Report 2008" Spanish Ombudsman.

¹³ Spanish Constitutional court : STC 183/2008 of December 22nd.

¹⁴ Page 415. Ombudsman's Annual Report.

treatment of behavioral disorders, understanding that those centers are meant for protection and not for imprisonment. One has to underline that nearly 50 percent of children who fall within the reform system are foreigners. Other public agencies estimate that such authorization would only be required when the minor enters because of mental disorder reasons. The lack of regulation does not define clearly the concept and the therapeutic use of the system in order to protect and reform.

V. Manifestations of racism and religious discrimination

V.i Employment

In order to respond to the equal treatment principle as stated both in Spain and at European level it is necessary that the situation and characteristics of the foreign origin population is taken into account transversally throughout all public policies, therefore considering foreign population as a part of the Spanish population. Migrants' rights can never be linked to its administrative status or employment.

However, as shown year after year, one of the main government indicators is the labor market situation used in order to set immigration policies and in the integration of immigrants in Spain.

In this context, the institutional framework, as in previous years, continues to set the focus of immigrants in certain sectors of activity through recruitment under the “national employment situation”, and as a result, there continues to be industries with an uneven concentration of immigrants in “secondary” labour markets such as (agriculture, industry, construction, domestic services).

In this situation of structural discrimination, it should be noted that during 2008, the global economical crisis began to deeply affect employment, and the immigrant community was harshly struck and continues to be strongly affected.

Their unemployment rate in late 2008 was 21.26% versus 12.52% of the Spanish population.

According to data recorded by the Labor Force Survey (LFS) during the fourth quarter of 2008, 780,000 foreigners were unemployed, and 2,886,500 people had jobs in lower skilled occupations (regardless of their training)¹⁵.

According to the survey, the crisis affects in a larger manner all foreign workers rather than Spanish workers, particularly the Ecuadorians and Moroccans, who mainly worked in construction sites. The unemployment rate in Morocco at the end of 2008 stood at 35%, 14 points above all foreigners, the construction sector lost 560,330 affiliates in the social security, and 136,210 of those were immigrants.

Furthermore, with the increasing unemployment rates, the negative perception of immigration grew progressively during 2008. It reached its peak in September when 28.4% of the population recognized immigration as one of the three main

¹⁵ National Institute of statistics; www.ine.es

problems of the country (according to the barometer of the CIS). As a result, people linked "unemployment" with "immigration."

The idea that the unemployment rate was explained by the increase in the immigrant population and not by the destruction of jobs continues to rise. And, the "national preference" argument becomes stronger as well as the idea that "foreigners" are no longer a contributing factor in the 50% of national GDP, but a competition when looking for employment or social benefits.

With the same approach, 2008 becomes the year of the "voluntary" return plan through a campaign that invites "certain" immigrants to go back to their country of origin, under the slogan: "Are you thinking of going back?" This takes place because of the idea that there are more than enough immigrants and the continuous xenophobic intolerance.

Further information on actions taken during the year 2008:

-The net inflow of immigrants in Spain fell short of the 500,000 people. According to the European Union, this was the first year with in the past decade in which numbers were so low in Spain.

-In October 2008 the list of difficult coverage occupations were reduced to one third, this limited the hiring of foreign workers through the system and between the professions that have been removed are those that generate more employments: construction, domestic service, waiters, agricultural labourers, and so on.

-The recruitment has been reduced dramatically: from 15,731 people expected in 2008 to 901 people by the year 2009, which means a 90% decrease.

Furthermore, at the end of 2008, the Social Security had a million and a half (approximately) of the employed members less than what the Labor Force Survey (LFS) demonstrate. This suggested that this difference is a consequence of the workers in the informal economy (people who are working without been a part of the Social Security System).

While the difference between active EPA and affiliates of the Spanish Social Security are approximately of half a million, in the case of foreigners it is one million, which demonstrates that foreigners are more affected by the Spanish economy¹⁶.

In the opinion of the responsible immigration entities, geographical mobility has increased with the crisis, or at least augmented the willingness of immigrants to be a part of it. Those who attend the services of these institutions demonstrate that they are willing to work in any sector and do not mind going to any province.

¹⁶ Immigration and the labor market. Report 2009. Miguel Pajares. IPOs

They are aware of people who have been working for several years in Madrid and in 2008 went to work at the agricultural harvests or other jobs in Malaga, Murcia, Valencia, etc.; this has been the case for many unemployed construction workers.

When comparing the mobility of Spaniards and foreigners, taking into account the internal mobility (between Spanish municipalities), it becomes obvious that the mobility of immigrants is higher than that of the Spaniards. The latest data of Residential Statistical Variations were obtained in 2007¹⁷. During 2007, 3.1% of Spaniards migrated from one municipality to another, while the percentage of outsiders who did the same thing was four times higher, 11.8%.

Another feature of the work of foreigners in Spain is the duration of their contracts. Regarding this issue during 2008, the percentage of contracts decreased compared to the data for 2007 from 11.37% to 11.20%.

On data recorded by temporary work agencies in 2007, which accounted for 14.75% of all recruitment, foreign workers account for 27.31% of all contracts entered Temporal work agencies and 18% of total the recruitment of outsiders. A substantial increase (almost 10 points with respect to data recorded in 2005) in the connection of foreign workers with ETTs¹⁸.

Since they were hired under this procedure and since they usually are the last ones to join the companies, in many cases, due to the economic crisis they were the first ones to lose their jobs.

Immigrants are still the group that suffers the most from labour accidents, because of their unstable employment status. During the first half of 2008, immigrant workers suffered 13.8% of the 447,173 accidents.

We must mention once again that racially motivated harassment is a reality within the working environment, and that its denounced in more frequent manner, but the lack of judicial support is evident, and even more so in cases of irregular workers. Few cases have been brought before the judicial system.

One more year, we invite the Spanish State to ratify the UN convention on the migrant workers rights and their families, which look after the rights of all migrant workers, whether they are in a regular situation or not.

We firmly recommend the possibility of facilitating the approval of academic qualifications and/or the possibility of obtaining training recognition or experience, as they are important elements to access the labor market.

¹⁷ National Institute of Statistics; ver www.ine.es

¹⁸ Report on the situation of social integration of immigrants and refugees in 2008. Forum for the social integration of immigrants.

We advise ways to increase efficiency and performance of the Labor and Social Security in order to monitor the working conditions of employees of foreign origin, in order to ensure the equal treatment principle.

V.ii Housing

While 85% of Spaniards have their own homes (2001 Census), only 13% of immigrants from peripheral countries enjoy the same situation according to a survey which we carried out in 2005¹⁹. Most of them live in rental homes but in two very different situations: renting a complete apartment or house (30%) and subletting a room or part of an apartment or home (47% of the collective). This last situation is the most common scenario concerning the residence between those who have been living in Spain for a shorter period of time and those who have not reunified their families or have not consolidated a nuclear family (86% of those living in sub rental housing live with “strangers”).

Another form of occupancy is to reside in the home or business of the employer (5%, some 140,000 people), most of them are female domestic workers. Finally, 4.5% of immigrants find themselves in other situations that have in common a residential separation: a temporary free residence in a house that belongs to other people; people who live in the streets, in public places, under a bridge, in abandoned houses, etc., housed in shelters, camps or host homes and those living in so-called "hot beds", a unique but widespread practice, which consists of sharing a bed with several people throughout selected time periods in the day or night.

Generally speaking, the quality of the immigrants housing is well below the average in comparison to those of the local population. Immigrants themselves evaluate negatively their present housing situation when compared to the last house they had in their country of origin:

Immigrants live in very small houses, which generate crowding situations (less than 10m² per person) that are more frequent among them (19%), among locals the crowding situation is less (2.5%). If we calculate by taking into account the number of rooms, there is less than one room per person, two thirds of immigrants and one third of natives.

BILBAO. January 2008: 80% of real estate companies close their doors to immigrant customers. According to a study of SOS Racismo, 80% of the real estate companies in Bilbao systematically refuse to rent apartments to foreigners. Agencies simply respond to the demands of owners and tenants who

¹⁹ View Colectivo IOE, Immigration and Housing in Spain, Ministry of Labor and Social Affairs, Madrid, 2005. It can be seen in www.colectivoioe.org. According to the Survey of Living Conditions in 2004 (INE), which included a subsample of 1266 foreigners, 27.8% of people who came from peripheral countries owned their houses. View ARANDA, J., Access to home ownership in the immigrant population, INE, Madrid, 2006.

do not want immigrants. According to SOS Racismo Bilbao sometimes owners believe that immigrants do not have enough money to pay the rent and they come up with any excuse, others simply do not want immigrants living in their apartments and throw them out.

Organizations working on direct discrimination cases against immigrants who seek rental housing through web pages receive many complaints.

V.iii Education

Without a doubt children's education is very important, the school system teaches both instrumental and social skills for their complete development. When referring to immigrant students, the importance of receiving such education is larger, since in most cases, they have more difficulties: language, religion and/or different cultures and, in most of the cases, a low socioeconomic level.

In Spain, all school-age children have the right to an education, and it does not matter if they are in regular situation or not, but this guarantee of access to education does not meet the same conditions in institutions maintained with public funds. In the structural and organizational arena, a double network of public schools and arranged schools (private centers maintained with public funds) still exist.

Spanish cultural diversity continues to increase and every year this is reflected in the educational system: during the 2007/2008 term foreign students represented 9.6% of the total number of students at school, increasing substantially to the same term one year before with a 1.2%. Of this percentage of immigrant students (695.190), 82.8% attend class in public schools, while the rest: 17.2% are registered in private centers (arranged ones - maintained with public funds and completely private ones).

This overwhelming majority of immigrant students attending public schools does not guarantee equality in access to education; the development of ghettos within the minorities continues, this is the reason why we cannot speak of an improvement in this aspect with respect to previous years. In the organizational and structural scope, the public system of education must improve in order to avoid these marginalization developments. Perhaps the newly Advice on Equality of Treatment could produce some suggestions on the matter.

The controversy continues regarding the subject of citizenship education and rights proposed in order to prepare students for citizenship in terms of equality and social justice. It has seen many objections, regarding the subject and in regions like Valencia, it has become mandatory to study it in English. Some regional courts have issued judgments on whether it is legal or not to exercise a thorough objection, until January 2009, when the Supreme Court ruled that there are no objections, in order to prevent some moral subjects within the study programs (it opens the door to use of textbooks in order to teach the subject).

In addition, the State Center for School Coexistence and Conflict Prevention School presented in 2008 information from a study conducted in 301 schools across Spain (excluding Catalonia), in which 46% of Spanish teenagers reported to be less enthusiastic or simply unwilling to work with Latin American or Jewish students. The Center prepared in 2008 hundreds of teachers in the subjects of coexistence, and is trying to create a working group, intended in the achievement of good practices for coexistence strategies resulting in improvements in the area.

Other news and studies on racism in the school in 2008 are:

The 2008 school survey on attitudes towards immigration and the changing values of the Center for Migration and Racism Studies at the Complutense University of Madrid confirmed the long road towards integration. Their results were summarized in one sentence: half the schools have a negative assessment of immigration. Specifically, 50% of poll participants believed that immigrants take away their jobs; 61% thought that immigrants increase crime, drug and substance abuse problems and 40.7% believe that terrorism increased because of immigrants. The study, led by the Professor of Social Anthropology, Tomás Calvo Buezas, has established for the first time a division between good immigrants, the legal ones, the bad ones, and the illegal immigrants²⁰.

According to a study of conflict and coexistence in secondary schools conducted by the Catalan research group of the Autonomous University of Barcelona, within foreign students there are a larger number of cases of intimidation, physical and verbal aggression than amongst other students.

v.iv Health

Contrary to what some people may think, immigrants generate fewer expenses for public health and other benefits than Spanish citizens. This is noticeable in a study developed in Lleida, which is responsible for destroying stereotypes: even though they visit the ER more frequently they spend less time in hospitals, foreigners spend 41% less in drugstores (3% less than Spanish workers). The most frequent cause for incapacity amongst immigrants are back pains, colds, and diarrhea. The study monitored 1.634 immigrant patients, 4.156 Spanish patients throughout an entire year, and 168.111 emergencies attended at the Hospital Universitario Arnau de Villanova de Lleida²¹. The investigation demonstrates that foreigners attended more specialized consultations and emergency hospital services and less to primary care consultations. Several attribute it to the fact that sometimes they cannot leave their jobs (construction)

²⁰ See www.ucm.es/info/otri/.../fichas/tec_tcalvo1.htm

²¹ http://www.elpais.com/articulo/sociedad/inmigrantes/recurren/sanidad/publica/espanoles/elpepusoc/20080624elpepusoc_5/Tes

<http://www.elmundo.es/elmundosalud/2008/06/24/medicina/1214316648.html>

or cannot go home in order to take their children to doctors' appointments. Sometimes, their bosses just do not give them permission to go to doctors' appointments.

The report also shows that immigrant women go more to hospitals, but this is a direct result of the increasing number in births.

The study done by the Coordination Group on Immigration, Adoption and International Cooperation of the Spanish Association of Primary Pediatrics Care²² is also very interesting.

Specifically, between 10 and 15% of the 670.000 children under 16 years old that visit pediatric consultations are immigrants, mainly from Morocco (576.00), Romania (421.00), Ecuador (421.000) United Kingdom (315.000) and Colombia (260.000).

The study also notes that "Last year there were more than 200 cases of Malaria in Spain and most patients were Spaniards who had not taken Prophylaxis" or any precaution before their trip to certain regions.

V.v Policing and racial profiling

This issue has had a great deal of importance and media coverage since late 2008 given that many social organizations were denouncing the increase in identity checks by the national police in neighborhoods with a large presence of foreign citizens, in metro stations during rush hour or when they arrived or leaved work.

At that time, no evidence of a premeditated plan by the police existed; but during the beginning of 2009 a police union filtered a complaint about police officers who had to meet a quota of detained foreign citizens in several stations in Madrid.

V.vi Racist violence and crime

Even though Spain lacks institutional statistics in order to create official estimation about racism, xenophobia, hatred crimes and other expressions of intolerance, it is only necessary to read newspapers or search the web in order to find numerous extremist signs by narrow-mindedness and phobias through different cities. These facts are confirmed by minority groups victims like: homeless people, immigrants, homosexuals, gypsies, Muslims and others that denounce and show the pain they are in because of aggressions due to extreme intolerance, by arrogant criminals that are trivially persecuted by our Justice System.

An example of xenophobic action that took place in 2008, have been dozens of xenophobic manifestation and demonstrations by ultra right wing and neo fascists in various Spanish cities. Many legal groups like Spain 200, National Alliance, Nation, Revolution and National Democracy, amongst others, have

²² Efe. April 16th 2008.

convoked demonstrations and have placed several posters and propaganda against immigrants emphasizing xenophobic attitudes.

Every survey shows that xenophobic attitudes increase and that none of them show a diminishing in intolerant actions, which might be considered as a worrying factor to all those who are responsible for integration guidelines in institutions. Even more so, in some surveys it is evident that 14% of youngsters would be willing to give their vote to a racial political party, facts that surely increase in an economical crisis and when people are so uncertain about their future. In this context, xenophobic and neo fascist manipulation has become a cruel reality that has been born as a direct result of democratic coexistence difficulties.

Internet has demonstrated the existence of illegal groups, mainly of neo-Nazi origin, that have developed an intense activity.

INSTITUTIONAL RESPONSE

During 2008 Institutional and social responses have been very uneven. Even though European Institutions approved the Marco Determination to fight the Penal Right against Racism and Xenophobia that sanctioned people who spread racist ideology with three years of imprisonment. This did not have a positive result in Spain and its only outcome was the creation of the Equality Treatment Council. The disapproval of the non government organizations was more than evident, and made itself heard through the **Movement against Intolerance**, SOS Racism and International Amnesty denounced in 2008 the lack of interest regarding racism and xenophobia by authorities. The Progressive Prosecution Union, the Dialogue and Coexistence Forum of Madrid and the Popular Action Platform against Impunity developed great initiatives.

On May 24th the Progressive Prosecution Union (UPF) adopted the following conclusions against racism, xenophobia, homophobia and against people. Associations that promote racism, xenophobia, homophobia and white trade slavery are illegal, and (UPF) considers that it is necessary to demand authorities that are in charge of security the creation of special police units in charge of prevention, investigation and persecution of all illegal associations.

UPF demands that all legal instruments should be used. Specially, that judicial police members may act using a fake identity, acquiring and transporting objects, all instruments used to commit the felonies and that they can decide on their removal. This withdrawal would take place by the Judge as stipulated in article 282 of the Criminal Law, as they are consider investigation that may affect organized crime.

UPF demands that the General State Prosecutor pays more attention to this form of crime and that they consider all as organized crime groups so that they might have a specialized response by the General Prosecutor, whether it be in a special Prosecution Office or in various sessions in smaller offices, under the coordination of a prosecutor.

INTERNET

The Raxen Report by the Movement against Intolerance has registered more than a dozen of web pages and forums with racial and xenophobic propaganda, ultra or neo Nazi, and sells fascist books. They also organize illegal and not authorized activities, they are completely freedom²³.

AGGRESSIONS

The Raxen Report has also registered facts and events relative to racism and intolerance, activities that have taken place in more than 200 municipalities in Spanish autonomous communities. Other activities that have been registered are racial music concerts, always clandestine but having support of permissive institutions; the existence of neo Nazi flags in soccer stadiums of first and second division is also noted, no one takes them down and several incident both in and outside the field. This racial and xenophobic propaganda reaches out to anti-Semites and homophobics promoting a situation where clandestine neo Nazis emerge causing numerous aggressions, and violence caused by individuals who have assimilated hatred towards all things that are different.

The Raxen Report estimates that depending on the place where aggressions take place, the amount of time it happens about four thousand aggressions and violent incidents take place during an entire year.

HOMOPHOBIA

According to a report by the Social Action Group (GAS), during the first semester of the year approximately sixty homophobic aggressions took place in Andalucía. In all the country 2.134 charges of discrimination have taken place, according to l'Observatorio de la Diversidad de Orientación Sexual e Identidad de Género (ODOS). Organizations against Homophobia have asked for an urgent meeting with the government²⁴.

A few weeks ago, three skin heads attacked a gay couple in the middle of Sevilla, an event that generated immediate alarm. Homosexuals have stepped forward in politics, the judicial system, the army and started to support their Rights. More than 60 people from Andalucía have been attacked in the streets because of their sexual orientation.

The Colleague Federation and Ombudsman alert others about an increase in this type of behaviors. The last of this type of aggressions took place only a few weeks ago when three skin head youngsters brutally beat up a homosexual couple that strolled in the old quarters of Sevilla. It generated alarms everywhere, but the president of Colleague, Antonio Ferre, explains that not all aggressions are provoked by neo Nazi bands. As a matter of fact, during that same time period another teen form Cadiz was assaulted and no skin heads where involved.

²³ "Raxen report 2008; Movimiento contra la Intolerancia: see www.movimientocontralaintolerancia.com

²⁴ Idem

HATRED MUSIC

In 2008 many concerts that promote **racism, xenophobia, anti-Semitism and extreme** intolerance have taken place in Spain and racial oriented Spanish bands have performed in many European music festivals. Amongst the most important organizations we emphasize legal ultra right parties and legal neo Nazi associations, charged with the organizing of concerts, internet spaces promoting hatred through punk music (OI MUSIC) and have distributed material contrary to a democratic life and Human Rights. Without any kind of problems and enjoying absolute impunity they manifest using the Internet in order to organize at least 22 racial and neo Nazi concerts.

EXAMPLES OF RACIAL AGGRESSIONS

RACIAL VIOLENCE AGAINST HOMELESS PEOPLE

8th October 2008: An Algerian citizen denounced that while he was brutally beat en up by a cashier at la plaza Paris in Palma someone recorded the event. It all started when the victim was sleeping and someone knocked at the door. He thought they needed to take out money and he did not hesitate to open. And the stranger entered with another man, who the homeless person knew since he had previously attacked him. And once again, and with no apparent motive, one of the men started punching and kicking him in the face and body, while stealing his wallet and cell phone.

RACIAL VIOLENCE

9th February 2008: Salamanca Universities Headmaster, Jose Salamanca, expressed his “disgust and disapproval” towards any type of verbal or physical violence towards a post graduate student. In one of the city’s parks, a 20 year old couple verbally assaulted, using racial insults and physically hurting a South American post graduate student that was taking a walk with her children.

7th June 2008: A 23 year old man denounced he was attacked by a group of motor heads. The victim, named Jorge Kuo Yao and was born in Valencia believes they lost their temper with him because he is of Asian descent. The events took place last May 20th in Benetússer. Jorge explained that “a group of six or seven motor heads between 16 and 17 years of age approached me when I was taking food to my parent restaurant. First they asked for food and then they asked for change”. When he refused, “they kicked and punched me, they spanked me with a chain, a helmet and they broke my nasal cavity.” The officers in charge of the case detained a nineteen year old man and five underage kids as supposed authors of the aggression.

23rd December 2008: Two young people attack an Asian woman using fists on Line 6 of the Subway and they insult various South Americans. The Spanish youngsters entered the Subway wearing baggy underwear and shorts while making fun of those who ask for money. The difference with the case in Barcelona, where a neo-Nazi attacked a South American teenager, is that the

train wagons do not have video cameras so when a 39 year old Spanish women stood up in behalf of the victim the attackers screamed: “where are you from that you protect the Chinese mother fucker?”

NEO NAZI VIOLENCE

21st July 2008: About fifteen right wing skinheads went to a local place in Valladolid looking for an antifascist teenager. They threw glasses, chairs, table, stones and umbrellas against bar and establishments and as a result the owners closed them up in order to protect themselves. When witness punished the neo-Nazi’s for their behavior, they took out knives and blades. Some ended up with several contusions and a young man had his jaw fractured. Five aggressors where detained, one of them was underage and another was identified as the leader of the skin head movement by a TVE program: the judge left them in liberty without charges.

ULTRA VIOLENCE

19th January 2008: A group of six to ten neo-Nazis decided to beat up people in several parts of Valencia. The aggressors traveled in several cars through diverse partying sectors of the city waiting to catch people who where alone so that they could brutally beat them up. A young lady was near the Plaza del Cedro, of the Amistadt neighborhood, when she suffered several contusions after she was attacked with no reason by the skinheads. During that same night, the same group supposedly went to Benimaclet neighborhood where they attacked two youngsters. Later on, near a concert showground in Meliana, another teen suffered a brutal aggression and he had to stay two days in the Hospital.

ANTISEMMITISM

11th February 2008: The Mosso d’Esquadra have detained three men of Nazi ideology as supposed authors of threats against people at a Synagogue in Barcelona.

XENOPHOBIC VIOLENCE BY SECURITY GUARDS

17th April 2008: “Mohammed if we see you again we will kill you, fucking Arab”. The author of this sentence is a Prosegur security guard that with other colleagues battered an immigrant of Magribi origin in the train wagon of Renfe near Mantcada I Reixac. A witness told EL MUNDO every detail about the brutal aggression. Pau explained that a few minutes after 11pm that Saturday night, he saw a badly hurt 20 year old man of Magribi origin seating down in one of the train heading towards L’HOSPITALET de LLOBREGAT “he was appallingly hurt”. “Out of the blue ten or nine security guards appeared and grabbed him” the young man explained, and he added that one of the guards hit him with a stick. “they told him: go back to your country, fucking Arab”, he added that the other guards hit him with sticks and kicked.

V.vii Access to goods and services in the public and private sector

In times of economic prosperity, foreign citizens were considered the architects of the Spanish Social Security surplus and of the Spanish Baby Boom. Both banks and housing constructors perceived them as potential consumers. As a result, despite a precarious employment situation they took on debts with banks and second rate financial institutions that ensured a long term economic stability. Banks did not think twice about granting mortgages and did not hold off in the financing housing acquisitions, accepting guarantees between foreigners which meant that they not only had to answer for their own mortgages but also for the third parties debt.

The Ecuadorian National Coordinating Entities (CONADE) a member of the ENAR network launched a social campaign in which they denounced several institutions for financial practices and abuses that had been permitted. The government's main mortgage measure is the moratorium that allows those who are in debt to differ their payments. It is necessary that the amount does not exceed 170.000 Euros. There are cases of people who have left their apartments thinking they could leave their debts behind.

In a study CONADE revealed the exponential rising of mortgages belonging to immigrants, less than a third are currently paid and almost 10% are in court. Now a days, housing mortgages are not sufficient to repay bank debts, in the past they stated prices far below than the current one, so far, not even when the bank receives the house or apartment is the debt settled with the bank. In this situation the role of non government institutions is essential. One of them, the Spanish-American Solidarity and Cooperation (AESC), submitted 1.100 applications for payment, reduction of deferred interest and fees to the Office of Caja Madrid. Eighty percent of the 10.600 evaluating contracts signed are with entity.

Another significant change was in regards to the transfer of funds from foreign citizens to their countries. Through bonanza periods the remittances companies remained as an aggressive marketing campaign in order to attract customers, transferring funds was presented as an important factor for the development of their countries. According to data, from the Bank of Spain, until last year, the amount of remittance had not ceased to increase, but since the beginning of 2008 the contrary has happened. So much that if in last years quarter foreigners sent 2.193 million Euros (a historic precedent) between January and March of this year they only sent 1.1872 million. This is the lowest record since 2006 third quarter, which gives us an idea of the intensity of the adjustment regarding foreigners' money²⁵.

²⁵ www.cotizalia.com/cache/2008/07/01/21_envio_remesas_inmigrantes_crisis_economica.html

V.viii Media, including the internet

We are closely approaching the action of the media in 2008, taking into account the ALER (Latin American Association for Radio Education) investigation developed from a sample of Spanish and Ecuadorian newspapers. They were systematized in the report "Images and imagination on migration in the Ecuadorian and Spanish press", a window to a general treatment on the topic of migration in the media.

ALER has been engaged in this study taking into account *media recognition seen as paradigmatic institutions, with a great symbolic power and ability to exert influence on what people think, feel, or decide ..., especially regarding important events for groups and societies to which they belong. This is the case of Ecuadorian migration.* Considering the exercise of power coming from mass media, they look at the players (such as immigrants and ethnic minorities) and aspects of reality obtained from certain points of view producing messages. Whether they are obvious or understated, positive or negative; idealized models of what to do and what not to do, what is relevant, legitimate, acceptable, civilized, "ours" and what is not...

The assumptions that have guided the research were as follows:

- Information on migration has a negative tone, it is associated with conflict; cultural aspects, constructive migrants are often invisible or minimized.
- It is especially newsworthy to report, inform and not to explain and contextualize the problem, because of this the current situation is the most common time frame and the information genre prevails.
- Immigrants are a second hand informative source since they are not the most cited resource, they are perceived as testimonials and not observer or opinionates. They mainly appear as passive actors, non-active roles of victims, perpetrators or beneficiaries of public and private charity, and almost never are seen as actors against adversity or characters of their own development that may be seen as an example.
- The information is both ideological and racist, which manifests itself through a series of resources and rhetorical strategies that positively embody the group (countries that receive) and negatively to the "other" (migrant) and forming the "ideological square" made by Van Dijk.

The features set out above are improved and are more evident in the headlines.

The research was conducted mainly through content analysis of notes and headlines. The test was focused on three daily Spanish newspapers and three

Ecuadorian²⁶ newspapers: El Pais, El Mundo and Que!: The first two were chosen because they are considered the most widespread national papers and with sufficient income to allow them to have their own international information without depending on external sources such as news agencies, representing different ideological positions. The third is a free daily that circulates in the Madrid subway and is widely read.

The results of a sample of 161 units of analysis published in the Spanish press were systematized in the following table:

In this part, we present the most significant results of content analysis applied to 129 journalistic sections or units of analysis published in Ecuadorians newspapers and 161 units published in the Spanish, as detailed in the table given below:

In conclusion, the Spanish press study in 2008, stresses that:

- Information on migration as seen through the conflict and a negative tone at the expense of the good that is often invisible or minimized prevails.
- Always benefiting the informative and factual, to the detriment of interpretation, explanation and contextualization.
- Immigrants are seen as second hand sources.
- The previous features are enhanced and are more evident in the headlines.

In this context, a last reflection regarding the presence of women in media discourse is necessary, from the study²⁷ of Spanish television in the years 2003-2005, updated in 2007 and on which is projected continued until 2009.

The importance of answering the question: *how were immigrant women represented in an information arena and how these representations impacted the social perception that the Spanish population had? It is based, as we have noted above, in the recognition given to the media institutions as molders for the public agenda and discursive axis around which all social action pivots. This recognition allows a certain type of contact with the symbolic discourses materials offered by the media to the Spanish society in order to think about itself and to establish certain values and commitments about the way in which to conceive and organize the world.*

The study formed the foundation for the research in order to study the

²⁶ El Comercio, El Universo y El Mercurio newspapers

²⁷ Maria Jose Sanchez-Leyva, Vanessa Saiz, Hector Fouces and Paulina Gomez. "Public Space and discursive strategies: the visibility of women in the informative Spanish

performances revolving immigrant women has been carried out on the information transmitted by the channels TVE 1, Antena 3 and Tele 5, through a 15 days period. We offer an approximation to the following results:

- In terms of visibility samples we recorded that the anonymity of immigrant women has increased when dealing with migration issues.
- One of the most surprising results of the research was the awareness that the media representation of migrant women was not in the news but in talk shows.
- It is important to note the cultural dominance over any other consideration when defining the differences between locals and immigrants. In this position they mainly appear as a racial blank, branded a not predominantly white, and basically only seen as sex machines and mother figures.

When dealing with the subject of the immigrants bodies the main regards are their physic, dress, hairstyle, gestures, movements, styles, accents, exhibition venues, which are reproduced within an interpretative framework that differentiates itself from the one we associate white Western-Europe people. The features common to both bodies are not only taken into account, but are also excluded. It focuses on a series of acts and gestures that are repeated and further stabilize by the production of "appearance of substance, a natural being."

This posture as an *immigrant woman* is marked by a certain presence and the exercise of certain roles. In the newscast we observe how they tend to occupy a secondary compared to males, who are more visible in numbers and quality (70 percent of the registered news are exclusively male related). Not only do they receive more attention but they also have more representation in collective terms. The development of the image is also associated with different tasks or events, in an ambivalent structure: both are shown in the role of hard workers and in some cases exploitation, as linked to raids on bars, terrorist acts, and the arrival of boats or acts of crime.

VI. Political and legal context

This report also aims to present and analysis the response of public authorities to the fight against racism but also their approach related to migration and integration and criminal justice. Despite the previous analysis on communities vulnerable to racism and intolerance and also the manifestations of racism, we will not present any further improvement in 2008.

VI.i Anti discrimination

During 2008, the national Human Rights plan was approved and it should run all public policies in regard to everything related to Human Rights.

This plan includes as one of its focal points equality of treatment, integration and the fight against racism and xenophobia after the incomplete race directive transposition in 2003.

Amongst their proposals it is possible to find the approval of an equal treatment and anti-discrimination law as well as the approval of the first work plan by the Equal Treatment and Non Discrimination Council.

The plan finally recognizes the need to establish a strategic citizens and integration plan. But it also needs to start a National strategy against racism.

Even now, the Racism and Xenophobia Observatory still depends on the recently created Equality Treatment and Non Discrimination Council that is linked with the Discrimination Department of the Equality Bureau. Unfortunately, both institutions have a small budget, which demonstrates the “importance” given to it.

As announced by the government during the electoral campaign they have the intention of creating a law against discrimination during this legislature period.

Several organizations of the ENAR network are going to participate in the Equality Treatment and Non Discrimination Council which was recently created but is not yet functional. The networks coordination make noticeable their concerns about fulfillment of the European Directives and mainly towards racism victims by that institution.

From the ENAR network we demand that the Equality Treatment and Non Discrimination Council guarantees victim support through an Institutional Department that allows cases to be taken to court and psycho – social support.

Without a doubt, the study presented by the Spanish Observatory against racism and Xenophobia by the Work and Immigration Bureau on the results of the survey done by the Center of Sociological Investigations is very meaningful²⁸.

Of the developed analysis it is understood that racism and xenophobia continue to advance in a Spanish society that becomes plural by the minute and distant from cultural and ethnic homogeneity as many demand. The coexistence of native and foreign citizens is an everyday reality in all social life aspects, even if it

²⁸ Racism and Xenophobia Evolution in Spain: 2008 report: María Ángeles Cea D’Ancona y Miguel S. Vallés Martínez: General Direction for Immigrants Integration; Working and Immigration Bureau.

is not desirable in many cases. It is expected that the administration increases financing so that the quality of public services does not suffer given a growth in demand. A lack of equilibrium between offer and demand feeds the “first the nationals” speech. It should be noted that even in sanitary attention, four out of every ten surveyed people demonstrate that Spaniards should come first place; a percentage that escalates nearly to six of every ten when asked about job opportunities.

The Spanish authorities have not put in practice a national program in order to implement the Durban declaration²⁹. The new national plan of human rights policies does not include this declaration in its priorities³⁰

In 2010, the Spanish government will have to present the national report to the Committee for the Elimination of the Racial Discrimination.

VI.ii Migration and integration

As the president of the government described³¹, migration policies in Spain orbit around three themes: that migrants should not leave their home countries, if they do they should not come to Spain, and if they are in Spain, they should be arrested immediately and repatriated as soon as possible. To achieve these objectives, the immigration policies³² have hardened in Spain through the externalization of border controls and asylum procedures, the shifting of borders to the south, dialogues with third world countries about EU border policies and cooperation to manage migration flows. In addition, borders have been proofed by increasing their control and protection (fences in Ceuta and Melilla, SIVE, Frontex joint vigilance along the coasts of the countries of transit and departure, presence of European or Spanish agents in the border stations of the southern countries). Finally, following the European model, the widespread detention of migrants in the detention centers stop, and their expulsion (favored by many readmission agreements with countries of origin and transit)³³.

Spain has become one of the leading countries in the European restrictive legislation passed in the last year: the Return Directive (known by many as the Directive of Shame) and the European Pact on Immigration and Asylum. At a national level, the Aliens Act Reform draft has been presented, which diminishes

http://www.elpais.com/articulo/internacional/Durban/Ginebra/escala/Burgos/elpepuint/20090223elpepuint_1/Te²⁹

³⁰ http://www2.ohchr.org/english/issues/plan_actions/docs/Spain_NHRAP.pdf

³¹ *Our immigration policy abides by the principle that people can come and stay as long as they are in accordance with the law. This means that there is a strong fight against illegal immigration. And this must be done on three fronts. First, that people driven by despair should not leave their countries. Secondly, that border controls should prevent the entry of immigrants who do not have a guaranteed employment contract. And thirdly, that people who enter illigaly may be returned to their countries of origin.* Speech by Rodríguez Zapatero during the electoral campaign for general elections on March 9, 2008.

³² Outsourcing: reflects both the "relocation" and "de-", see www.migreurop.org

³³ Southern Border Watch Report 2008,

http://www.apdha.org/index.php?option=com_content&task=view&id=606&Itemid=45 and Retention Center and interned in Spain, in http://www.apdha.org/index.php?option=com_content&task=view&id=548&Itemid=45

immigrants rights and that has led to social movement rejections, as well as amendments to the Law on Asylum.

On a more concrete level, the “Asociación Pro Derechos Humanos de Andalucía” (APDHA) member of the ENAR network in Spain, during the year 2008 counted 15,572 people in canoes or boats that arrived to the Spanish coast (Canary Islands, Peninsula, Balearic Islands, Ceuta and Melilla), of which 77% were of sub-Saharan origin, 20% North African and the rest unknown. However, to these figures we must add the number of persons intercepted before leaving their countries and during the trip itself, which we estimate to be at least 20,000 (10,235 people intercepted before leaving Morocco³⁴, 1335 arrested during the trip in the Algerian³⁵ waters, 4416 during the trip by the authorities in Mauritania and Senegal³⁶, 1386 during the journey through the Hera³⁷ device and 1100 people intercepted by Hera before embarking on the coasts of Senegal, Gambia, Guinea Bissau and Mauritania³⁸).

Consequently, the exceptional peak of arrivals in 2006 was lowered, maintaining the migration from Africa to Spain, with the only difference that the migration control shifts to the south. In fact, there seems to be a decrease in the number of victims in the Atlantic Ocean (239 deaths reported in 2008 compared to 800 in 2007) and in the number of illegal migrants detention on the coast of Spain (14,634 in 2008 compared to 19,610 in 2007 according to official figures). However, far from the explanations given by the Spanish government on the “effectiveness” of policies to combat “illegal immigration”, this is mainly explained by the strengthening of partnerships with countries of origin and transit and customs offices and the movement of dead bodies (During 2008, 342 corpses were documented in the Mediterranean). In addition to the lack of migration flow reductions, it appears that although the routes change deaths still happen, collateral victims of the radicalization of European immigration policies.

The extreme difficulty to migrate from sub-Saharan³⁹ Africa using legal ways has meant that thousands of people lose their lives trying to enter Spain: they are victims of illegal immigration. The Asociación Pro Derechos Humanos de Andalucía (APDHA) estimated that since 1988 until today approximately 21,000 people have died this way. In 2008 the APDHA recorded 581 cases of people who lost their lives while trying to enter our country by sea, sub-Saharan being 75%, 18% of North Africa and the rest remain unidentified. These deaths and disappearances have taken place in the Mediterranean (59%) and Atlantic (41%). Regrettably, it is estimated that during that year the number of people that were killed on their way to Spain is much higher: at least 3,000 people.

³⁴ Data provided by the agency EFE and delivered by the Moroccan Government

³⁵ Data provided by the Algerian National Navy

³⁶ Data provided by Frontex

³⁷ Data provided by Frontex

³⁸ Data provided by Frontex

³⁹ See legal and orderly migration from a policy perspective in South Border Report 2008

The Department of Interior claims that the number of immigrants who arrived irregularly to the Canary coast, the mainland and Balearic Islands declined during 2008 a total of 13,000 in 26% and 23% respectively.

They consider that repatriations are reduced by 17% as a result of fewer arrivals.

The Spanish authorities have been maintaining a police force approach over recent years, since they have increased by 53.4% the number of troops for border controls and immigration in Spain⁴⁰.

On the other hand, the number of arrivals to the mainland and Balearic Islands in 2008 has also reduced by 23.9% compared to 2007. While in 2007 it reached 5579, during 2008 this figure was reduced to 4243. This lessening is at 43.4% if we compare it to 2006 when they reached 7502, compared to the 4243 in 2008.

The number of arrivals in the mainland and Balearic Islands drops to levels below those of 2002 while in the Canaries; these figures are close to those recorded in 2004.

In 2008, they repatriated illegal immigrants of 29 nationalities compared to 22 in 2007. The increase of repatriations of illegal immigrants from Nigeria, Mali, Mauritania and Guinea Conakry is particularly interesting. Other significant declines were illegal immigrants from Moroccan and Senegalese nationalities.

Returns

During the year 2008 returns (rejected at border posts, usually ports and airports) declined by 28.9% and went from 24,355 in 2007 to 17,317 in 2008. This decrease is the result of the creation and performance of the Immediate Response Brigade against Immigration, within the General Commissariat for Immigration and Documentation that acts on all the external borders.

Readmissions

Readmissions (people expelled from Spain by virtue of agreements with third countries) have fallen by 1.1% and from 6248 in 2007 to 6178 in 2008.

Increased expulsions and returns continue to decline

The number of expulsions (immigrants repatriated by the causes mentioned in the Aliens Act, usually through administrative records associated with illegal stay in Spain), increased by 12.1%, from 9467 in 2007 to 10,616 during 2008⁴¹.

In contrast, the number of returns (people who tried to enter Spain by unauthorized offices) has decreased by 22.4% and has risen from 15,868 in 2007 to 12,315 in 2008. The returns declined because the illegal entry was reduced to 25.6% during 2008.

⁴⁰ "balance de la lucha contra la inmigración ilegal: diciembre 2008 ; Miinisterio del Interior"

⁴¹ IDEM

Decrease in illegal entries in Ceuta and Melilla

The improved land fencing perimeter in Ceuta and Melilla, the actions undertaken by the Moroccan security forces and the return of Moroccans arriving in Spain, have helped reduce the overall entry of illegal immigrants in these cities. Thus, 1553 illegal immigrants came in 2007; this figure has dropped to the 1,210 in 2008, representing a decrease of 22%.⁴²

We also should mention that the the 11 Common Basic Principles on integration have not really been adopted as far as civil society is concerned.

VI.iii Criminal justice

VI.iii.i Racism as a crime

We did not have any further information about this issue during 2008. However some information is available in the chapter on racist violence.

VI.iii.ii Counter terrorism

We did not have relevant information about this issue during 2008.

VI.iii.iii Racial profiling

VI.iv Social inclusion

In 2008, the first symptoms of the current economic crisis appeared. As mentioned before, after the general elections, the crisis became one of the main subjects in the political and media discourse regarding immigration. Since most foreigners were in employment that needed less professional qualifications they endured majored unemployment, even more so than the Spanish workers. A perfect example could be construction or catering. In several occasions Mass Media often reflected the access of Spanish workers in off season jobs especially in agriculture; jobs that they had not been chosen until now.

The social consequences have been dramatic and it has caused many families who were in a stable social economic situation to be in danger of social

⁴² IDEM

exclusion. During 2008 CARITAS took care of more than 70,000 people, 59% of whom were part of the immigrant population.

Many foreign citizens could not renew their documentation when unemployed. This caused a situation of irregularity.

The Spanish studies on poverty in 2008 demonstrate interesting data about foreign citizens⁴³.

The percentage of foreign citizens in poverty is significantly higher than those born in Spain. Regarding moderate poverty 17% of men and 21% of women born in Spain are poor. Among those born outside the EU-25, the poverty rate is at 26% and 24% respectively.

The same pattern repeats itself with a high and harsh percentage of poverty, but it should be noted, that the gap between people born in Spain and elsewhere in the world is resulting in the growth of intense poverty pockets. High poverty is suffered by 6% of Spanish men and 7% of Spanish women; yet regarding people born outside the EU-25 the poverty rate is twice as high (12% and 14% respectively).

For example, while 29% of locals are unable to cope with unforeseen expenses, 53% of foreign citizens cannot cope with abrupt expenses. This income restriction can result in debt amongst households. However, people born in Spain who claim to have had payment delays in their mortgage is 5.5%, the payment of bills by 3.2% and credit payment by 6.6%. In comparison, people born outside of Spain presented a ratio of 10%, 8% and 14% respectively.

The subjective perception of the income limitations of basic needs of the homeless are clearly a reflection of the above: 29% of locals have difficulty or great difficulty to make ends meet, and for foreigners the proportion is 43%.

The contrast of information between local and foreign people younger than 16 reflects an upsetting scenario. While two in ten local children are at risk of moderate poverty (21%), amid those born outside the EU-25 the risk of poverty affects more than half of them (52%). Poverty rates are both elevated and cruel and they make the gaps even larger: while the high risk of poverty is 8.4% among local children, between foreign children that proportion is four times higher (32%).

In severe poverty, the rate of poverty risks for foreign children is seven times more than of those born in Spain (with a 4% amongst locals and 28% between foreigners). In this sense we have to mention that the Ministry of Labour approved a national plan for the period 2006-2008 that made a specific reference to immigrants. The ministry created a special fund in order to support the integration of immigrants. A special fund will be managed by the cityhalls.

⁴³ Center for Social Inclusion 2008. Obra Social Caixa Catalunya: report on social inclusion in Spain Source: Survey on living conditions of the population: National Institute of Statistics, 2007, made in 2005-2006, a Survey of more than 16,000 homes.

More programs will be funded in order to give more information to facilitate the integration and the enjoyment of fundamental rights, as health, education or social services. The Strategic plan on citizens and integration approved in 2007 is the essential tool in order to put in practice the integration plans against racism.

There seems to be a greater presence of temporary contracts amongst foreigners (54% of men and 58% of foreign women have a temporary employment, in contrast to 27% of men and 40% of local women). They are also prominent differences between average wages, men born in Spain have an average wage of 14,000 € and 10,200 € for women. In the other hand, male migrants have an average salary of 11,220 € while women get 8400 €.

Because of this, the fight against the economic crisis should become an opportunity to consider all citizens without becoming concerned with their nationality; they should be part of the solution.

VII. National recommendations

VII.i General

- Once more we demand the creation of a public register for cases of racial and ethnic discrimination and other forms of intolerance. Not only to provide institutional support to the victims but also to assess the needs of racial discrimination and intolerance in Spain.
- We also demand another year the right to vote of citizens in local elections through reform of the Spanish Constitution.

VII.ii Anti discrimination

- We demand that the Equal Treatment and Non-Discrimination Council established by the Ministry of Equality fulfill the obligations that derive from the European Directive 43/2000 against racial and ethnic discrimination; particularly to protect victims of discrimination throughout a legal, psycho-social, and institutional support.

VII.iii Migration and integration

- We insist and demand the stopping of the Aliens Act reform, given the fact that it lengthens apprehension periods of foreigners in detention centers.
- We request that a children's protection policy is developed, that children are not discriminated by their nationality or allow their deportation when it's against their will.
- Requires the signature and ratification by the government of Spain to the United Nations Convention on the Rights of Migrant Workers and their families.

VII.iv Criminal Justice

- We demand the signature and amendment of Article 270 of the penal code which punishes with two years of imprisonment and large financial penalties to those who sell music and movies on the street.
- We demand the creation of a Special Prosecutor that works against racially motivated crimes and other forms of intolerance.
- We demand that the stalking of foreigners that takes place through indiscriminate and massive identity checks in certain neighborhoods stops immediately.

VII.v Social inclusion

- We demand that in times of crisis both social and economic policies are addressed to all citizens disregarding their nationality and their administrative status. We demand the modification of a political and media discourse that does not confront people against each other because of their administrative or nationality status.

- We demand for a real implementation of the national strategic plan on citizenship and integration

VIII. Conclusion

The present report aims to review the main events, and published studies and statistics of the year 2008. In addition, an analysis of the performance of Public Administrations in the area of migration policies, anti-discrimination and social exclusion has been presented.

The general elections and the economic crisis completely set the tone of the political and media discourse. Once more, politicians lost a new opportunity to build a better sense of social harmony and citizenship. It is in these times of crisis that societies need to confront all of their problems in a unified manner without distinguishing citizens on the basis of their nationality or their administrative situation, without blaming some or excluding others from policies against the crisis.

The government's proposal has as its main focal point offering integral unemployment in two terms to foreigners who lost their jobs. The political message was clear: inviting all foreigners to leave the country and not to receive benefit of the unemployment policies.

Another political policy ordering the lessening of residence and work permits and reducing the body of workers in near a 90%. The year finalized with other two new political messages.

First it was the first draft of the reform of the Aliens Law that practically eliminated familiar regrouping, sanctioned the actions of solidarity with foreign citizens in irregular situation or facilitated the expulsion of unaccompanied minors. The second was without a doubt the increase of identity checks of foreign citizens in the cities' larger districts.

No public policy against discrimination can be constructed in a coherent and compatible manner using the speech of political leaders who tolerate, legitimize or urge racism and discrimination.

If someday, a racism awareness program or support to victims of racism is launched, it will be necessary to have the complete support of all political leaders; they must withdraw their support from policies that confront citizens because of their nationality or their administrative situation. As citizens we cannot allow it.

IX. Bibliography

<http://www.inmigrantesenespana.com/paro-inmigrantes-en-espana-aumento-andalucia-2008-inmigracion>

Immigration at the crossroads. Yearbook 2008, published by the Fundación Ortega y Gasset and the CIDOB

www.cgae.es/portalCGAE/archivos/ficheros/1235991550380.pdf

<http://www.elmundo.es/elmundo/2008/10/16/madrid/1224178834.html>

http://transfronterizo.at.rezo.net/spip.php?page=respuestas&id_form=4&id_articulo=90 have collected over 7,000 signatures

Annual Report 2008 "Spanish Commission for Refugee Aid" (CEAR)

Plan integral de lucha contra la trata de mujeres con fines de explotación sexual; ver <http://www.migualdad.es/noticias/pdf/PlanIntegralcontraLaTSHES.pdf>

Trata de mujeres con fines de explotación sexual: informe de la Federación de Mujeres Progresistas: año 2008. ver <http://www.fmpcontraexplotacionsexual.org/inicio.php>

"Return at any cost", Human Rights Watch

"Annual Report 2008" Spanish Ombudsman.

Spanish Constitutional court : STC 183/2008 of December 22nd.

Page 415. Ombudsman's Annual Report.

Immigration and the labor market. Report 2009. Miguel Pajares. IPOs¹

Report on the situation of social integration of immigrants and refugees in 2008. Forum for the social integration of immigrants.

National Institute of Statistics; ver www.ine.es

View Colectivo IOE, Immigration and Housing in Spain, Ministry of Labor and Social Affairs, Madrid, 2005. It can be seen in www.colectivoioe.org

http://www.elpais.com/articulo/sociedad/inmigrantes/recurren/sanidad/publica/espanoles/elpepusoc/20080624elpepusoc_5/Tes

Raxen report 2008; Movimiento contra la Intolerancia: see www.movimientocontralaintolerancia.com

www.cotizalia.com/cache/2008/07/01/21_envio_remasas_inmigrantes_crisis_economica.html

Maria Jose Sanchez-Leyva, Vanessa Saiz, Hector Fouces and Paulina Gomez. "Public Space and discursive strategies: the visibility of women in the informative Spanish

"National Plan on Human rights: Ministry of Foreign affairs http://www2.ohchr.org/english/issues/plan_actions/docs/Spain_NHRAP.pdf

Southern Border Watch Report 2008,

http://www.apdha.org/index.php?option=com_content&task=view&id=606&Itemid=45

Retention Center and interned in Spain, in http://www.apdha.org/index.php?option=com_content&task=view&id=548&Itemid=45

balance de la lucha contra la inmigración ilegal: diciembre 2008 ; Miinisterio del Interior"

Center for Social Inclusion 2008. Obra Social Caixa Catalunya: report on social inclusion in Spain Source: Survey on living conditions of the population: National Institute of Statistics, 2007, made in 2005-2006, a Survey of more than 16,000 homes.

X. Annex 1: List of abbreviations and terminology

AESC - Spanish-American Solidarity and Cooperation

ALER - Latin American Association for Radio Education

APDHA - Asociación Pro Derechos Humanos de Andalucía

CONADE - The Ecuadorian National Coordinating Entities

GAS - Social Action Group

LFS - Labor Force Survey

ODOS - Observatorio de la Diversidad de Orientación Sexual e Identidad de Género

UNICEF - The United Nations Children's Fund

UPF - Progressive Prosecution Union



european network against racism

ENAR Shadow Report 2008