

EUROPEAN TASK FORCE ON IRREGULAR MIGRATIONS

Country Report: Spain

Center for Migrations and Citizenship

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Políticos y Constitucionales Madrid, 2008 (co-authored with Amparo González Muñoz); A non-ethnic explanation of immigrants educational disadvantage: The case of lower secondary education in France. Madrid: Instituto Juan March. (PhD. Thesis), under revision in Princeton University Press, 2008; “Immigrant concentration in Spanish school: class composition school or class effects” in *European Sociological Review* (2009).

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The Politics and Policies of Undocumented Migrants in Spain

Spain represents in many ways an exceptional case study for research on immigration and especially irregular immigration. This makes this report a significant complement to those on local migration politics in Berlin, London, and Paris and, to some extent, in Rome as well. Officials, scholars and observers in traditional immigration countries in Western Europe have developed strong views, and concerns, on how Spain, Italy and other Southern European countries have failed to control inflows, have no explicit approach to integration, and need to learn from longstanding immigration destinations. These worries centre on the idea that Southern European countries need to efficiently manage the challenges that current immigration represents as well as increase the efficacy of future interventions in the field of immigration.

The misbehaviour of Southern European countries in the field of immigration has some bases. Indeed, irregularity has been a structural problem of immigration into Southern economies, and especially in Spain. Most successfully settled migrants in Spain have been irregular residents at some time. As we shall explain later, entries in Spain have only rarely been irregular. Overstayers represent the real question, although the media has emphasized the irregular entries, often focusing on the dramatic images of attempts to reach Spanish coasts by sea.

There are several reasons that explain this exceptional situation. Given the impossibility of addressing the entire issue, we would like to bring what we consider to be the three most important of these reasons to the forefront. The first is the path dependency of the strict regulations that Spain adopted in the 1980s. The second concerns the strength of the shadow economy and the expansion of specific productive sectors that are low skilled labour intensive. The third is the use of periodical extraordinary processes to regularise overstayers

Path dependence around the first legal instruments

Spanish exceptionalism began when the country had to develop its first legal instruments to manage immigration before its accession to

the European Union in 1985. The Ley Orgánica de Extranjería 7/1985¹ copied the strict model of control adopted by other Western European countries in the 1970s. Many countries that had benefited from intense migration inflows since the 1950s understood after 1973 that migrant workers did not fit the expected behaviour among guests and stayed in their host societies even when a string of employment crises complicated their ability to stay. This explains why in many cases, humanitarian migration and family reunification were the only realistic channels of entry for newcomers. While Spain felt no migration pressure on its borders in 1985, Spanish officials sought to converge with European practises and policies in as many areas as possible. And this explains why Spain adopted what we can consider a less realistic and appropriate regulation for a country that had a huge, but latent, economic potential and scarce demographic resources to clear the path towards modernization and economic development. Yet, the 1985 regulation was in agreement with the role that many of its central European neighbours imposed on Spain as a transit country for migrants heading north: guarding the southern border of the Union on the eve of the Schengen agreement.

In the 1990s the situation began to change slowly, although it was not until the end of the decade that significant inflows from Latin America and North Africa headed towards Spain. The Spanish political forces worked on a sophisticated reform of the primitive regulation approved in 1985. Driven by the Catalan and Canarian nationalists the debate on a new immigration law began in 1999 and ended in 2000, all opposing forces uniting behind the conservative government of José María Aznar. The Organic Law 4/2000² was well received by experts, trade unions and activists from NGOs for being both coherent with the European legislation and with the compromises of Spain with its northern associates in the EU (Ruiz de Huidobro, 2000). Among other innovations the law assumes a pragmatic model based on the foundations of a sort of dynamic census called Padrón, which grants access to all residents in Spain (nationals and foreigners, regular or undocumented) to basic social services such as education and health care. The Padrón Municipal Continuo is constantly updated by municipalities and centralised by the National Institute of Statistics. It is used for different administrative purposes including the funding given by the central state to the city councils. The Padrón thus became a central element in the poorly-defined integration policy in Spain. This exceptional feature makes Spain a distinguished case in the study of irregularity in comparison to the other reports produced by the EFTIM project. While in London and Berlin local authorities have a strong incentive to lobby for generous regularizations, Spanish local authorities are rather passive in this dimension since local

¹ LO 7/1985 de 1 de julio sobre los derechos y libertades de los extranjeros en España.

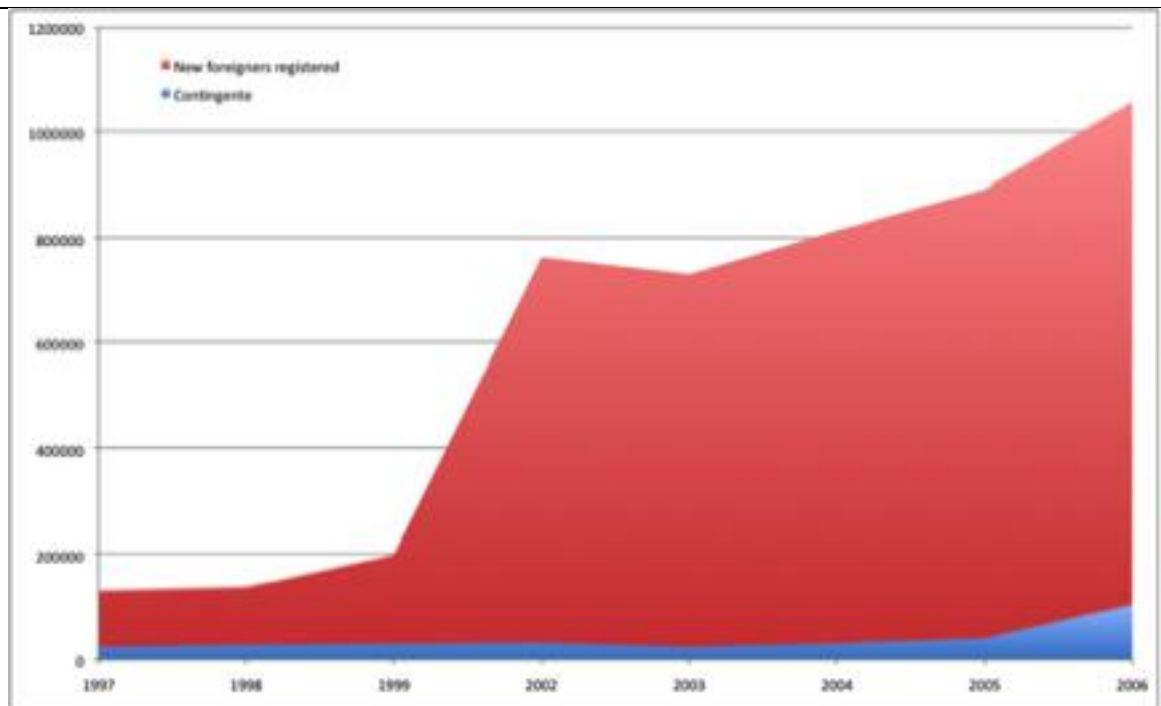
² Ley Orgánica 4/2000 de 11 de enero sobre derechos y libertades de los extranjeros en España y su integración social.

funding is determined by the number of residents registered in the local Padrón to which undocumented migrants have been granted access by law. Schools and hospitals, just to mention two examples lack the subversive roles that they play in Berlin or London in granting informal access to their services to undocumented migrants. Unlike older immigration countries, Italy and Spain have given a low profile to municipalities. Recently however, unlike in Spain, municipalities in Italy have also been given competences in regularizing undocumented immigrants (see the Rome report for more on this point).

After winning an absolute majority in the national elections held in 2000, the conservative Partido Popular passed a reform of the former law. The Organic Law 8/2000 was more restrictive in several aspects, but did not change the Padrón model based on access to social services for all registered residents in Spain.

In 2004, the Socialist Party won the general elections and was forced to deal with the inefficiencies of a system who had worked until then in reaction only to immigration pressure. In the peak of newcomer arrivals to Spain, there were two basic ways of entering the country regularly:

(1). The “Contingente” (quota system). This was the first general system of entry. The “Contingente” was supposed to be the result of an intimate cooperation between public administrations at all levels, trade unions and entrepreneurial associations, in a joint effort to calculate *ex ante* labour supply needs that would not be filled entirely by the autochthonous labour force. The logic of the “Contingente” required that these job offers be announced in countries of origin to recruit the best candidates. Although in principle the logic of the “Contingente” was inspiring, the system never worked because of a strong lack of realism at different levels. Two constraints were determinant for the failure of the “Contingente”. Firstly, some regional governments systematically under-estimated the demand for labour in their territories. Secondly, firms never really trusted a system in which recruitment was not directly done by employers but rather was externalised to public administrations.

Graph 1. Mismatch between the contingente and new foreigners registered yearly

Source: Cebolla and González Ferrer (2008)

Graph 1 evidences the insufficiency of the “Contingente” to account for new entries. While the area shadowed in blue is the “Contingente” yearly offered after the consultation of all relevant agents, the red area is the number of foreigners that registered in the Padrón for the first time. Of course, the Padrón is not perfectly equivalent to the number of migrants since many of the registered foreigners appear to remain so even after they may have moved to another region or country altogether. The Padrón is probably a good tool for estimating entries, and an imperfect one for the calculation of populations and their evolution over time. To be clear, we are not claiming that all the red area is filled with irregular or undocumented migrants, but it is very likely that such may be the case for most of it.

(2). The alternative to the “Contingente” was the general system regulating individual entries. This system imposed a number of rigidities that explained its failure. To begin with, the candidate and the employer had to have a previous knowledge of each other due to the fact that the application process is done on an individual level. Of course, this system can have certain positive characteristics if the recruitment is done among highly qualified workers, in which case employers can invest a significant amount of effort in order to select the best candidate. However, the Spanish production systems

required workers who were basically unskilled, and in most cases easily replaceable. Thus, costly selection processes for positions at this level are not worthwhile. The second difficulty with this general system of entry was the slowness and opacity of the administrations involved in the specific process.

Although the socialist party instituted some innovations, the strength of inflows prevented a quick renovation of control instruments to give future migrants credible alternatives to irregularity.³

The shadow economy

A deep knowledge of how the shadow economy shapes the Spanish production landscape is necessary in order to get a full understanding of the role that irregularity has played in Spain's history as an immigration country. Spain, together with Italy, is among those OECD countries in which a large proportion of its economy is informal (Serrano and Gadea, 2005). Estimates are always unstable and questionable but the most reliable ones suggest that it was well above 20% in 2000. Specifically, Dell'Anno, Gómez-Antonio, and Pardo calculate that the ratio shadow economy/GDP scored above 26% in 2002, when a massive arrival of immigrants was gaining momentum. A few points should be kept in mind.

The shadow economy represented a significant amount of the economic activity in Spain prior to the intensification of migration inflows. Yet, the arrival of large numbers of unskilled migrant workers ready to spend an extended period of time in unfair labour conditions as they waited for their residential status to ask for regularisation explains the vigour of the shadow economy throughout the past decade.

The expansion of the Spanish economy (as measured by the GDP) from 2000 to 2007 was mostly the reflection of a certain level of taxation, culture and labour relations, and the growth of specific production sectors such as construction and services related to tourism. These sectors are intensive in low-skilled labour, and workers are easily replaceable. Low-skilled migrants fit into sub-markets where employers, without the threat of labour inspections, sought

³ We would like to emphasize that entries into Spain have, most of the time, occurred in a regular manner. Irregularity is mostly a consequence of the accumulation of overstayers. Note that a majority of immigrants from Latin America have entered Spain with tourist visas. Direct flights between Madrid and most Latin American capitals have not been the only methods of access through which these foreign workers reach Spain. Many of them have chosen to enter via other main EU airports in Schengen countries such as Paris and Amsterdam, where the volume of direct flights from Bogotá, Buenos Aires, or Quito have increased dramatically over the last decade.

cheaper labour costs and a dynamic population of workers with high levels of geographic and functional mobility.

Of course, undocumented workers saw their situations as temporary steps towards full citizenship in Spain and full economic participation (Cachón, 2003). In other words, a painful daily life was seen as an unavoidable stage leading to the fulfillment of a long term goal of integration in the new host society. In their calculations regarding the costs and benefits of moving forward, the easy access to basic social services such as health care and education that Spain provides to all residents in the country, including undocumented ones, was determinant. In fact, this explains why family reunification in Spain has in many cases happened through irregularity (González-Ferrer, 2008). Some authors refer to this whole evaluation process as a positive “saldo vital” (Garrido, 2005), implying a rather unfair transfer of public resources from tax payers to private agents (employers) benefiting from low paid workers.

Extraordinary regularizations

Extraordinary regularizations are tools used by all countries in dealing with migration inflows (see table below for a list of recent processes at the EU level). Governments of all political colours have tried to fight against the unfair consequences of irregularity for tax-payers and unskilled workers. There are not many alternatives for reducing irregularity *ex post*. In fact, Spanish officials, as has also been the case in other Southern Mediterranean countries such as Greece, Italy and Portugal, have tended to use extraordinary regularization processes as the only means to clear up the undesirable populations of irregulars.

Table 1. Extraordinary regularizations operated in the EU from 1986

Year	Country (number of positive resolutions)	Year	Country (number of positive resolutions)
1986	Spain (43,800)	1998	France 77,800
	Italy (118,700)		Greece 371,000
	UK (s,d,)		Italy 193,200
1990	Italy (235,000)		UK 600
1991	France (15,000)	1999	Germany 23,000
	Spain (110,100)	2000	Belgium 52,000
1993	Portugal (39,200)		Spain 398,500
1995	Belgium (6,137)	2001	Greece 351,000
	Italy 238,000		Luxembourg 2,850
	Spain 21,300		Portugal 179,200
1996	Germany 7,856	2002	Italy 634,700
	Netherlands 2,000	2003	Portugal 3,000
	Portugal 21,800	2004	Hungary (,d,)
		2005	Spain 573,270

As can be seen in table 1, extraordinary regularizations have been used by other non-Southern countries (see Ferrero and Pinyol, 2008 for data on processes prior to 1986). However, it is clear that the ratios of population to number of regularized or of migrant population to number of regularized would indicate that the Southern countries, Spain at the head of this list, have generally operated massive regularization processes, revealing that irregularity was a more important problem in their economies than in the rest of the EU countries where extraordinary processes were implemented.⁴

Beyond this general statement, the focus should be placed on the establishment of “*arraigo*” (rootedness), the *de facto* permanent path to regularization designed in 2001. The “*arraigo*” has worked as a means to systematically reduce the number of irregulars, giving everyone the right to regularise once a number of requirements are fulfilled. There are two types of “*arraigo*”: labour “*arraigo*” requires the proof of a two year period of non-stop residence, of not being convicted either in the origin or the destination country, and the proof of the existence of a stable employment situation (no less than a year).

⁴ Table A.1. in the annex provides more detailed information about each of the processes used in Spain.

Social “arraigo” requires proof of three years of residence, of economic means to sustain one’s self, and family links or a certification from the municipality where the undocumented person is registered certifying his or her social integration. Although the “arraigo” has legally been defined as a tool to be used in exceptional circumstances, it has allowed thousands of undocumented immigrants to be regularized.

Estimations of Irregularity at the National Level

To end this section we would like to provide an approximate estimation of the evolution of irregularity in Spain over recent years. There have been some significant efforts to quantify irregularity using the comparative advantage that Spain has in the existence of the “Padrón Municipal Continuo”, which, although questionable in many of its uses, represents an interesting tool to describe trends. Cebolla Boado and González Ferrer (2008) discuss two methods for estimating irregularity.

The most static one uses information from the periodical extraordinary processes of regularization. This method uses the number of non EU-25 residents registered and the resident permits, and the positive and rejected resolutions in each process, and calculates the irregularity over regular stayers before the process. According to this method, the rate of irregularity has been dramatically high from 2000 to 2005 (see table 2).

Table 2. Estimation of the number of undocumented and percentage of irregularity

Regularization process	Irregularity over regular stayers before the process
1986	18,1
Total 1991 and 1992	35,6
1996	9,5
2000	71,2
2001 (arraigo)	53,3
2005	59,7

Source: Cebolla-Boado and González Ferrer (2008) using Anuarios de Migraciones. Anuarios de Inmigración. Lora-Tamayo, G. (1994). El Mundo, 2001. Arango and Suárez (2003).

The other method, a more dynamic one, combines information from the number of non EU nationals registered in the “Padrón” and the number of valid residence permits and adjust the figure of irregulars by subtracting the students card residents, asylum seekers and the estimated figure of residents renewing permits. This method was also used in the elaboration of the Spain country report in the CLANDESTINO project (González Enríquez 2009) for the period

2001-2008. These are the figures we used in our final estimation, updating the sequence to 2010 (table 3).⁵

Table 3

	TCN on the padrón	TCN with residence permits	TCN with student permits	TCN with expired permits	TCN irregularly staying (a-b-c-d)	% of irregularity
2010	n.a.	2524976	46914	n.a.		
2009	n.a.	2395704	44465	n.a.		
2008	3070484	2432705	42852	241000	353927	11,53
2007	2769664	2089305	33267	209000	438092	15,81
2006	3164302	2169648	30640	217000	747014	23,61
2005	2894712	1478416	36545	148000	1231751	42,55
2004	2358040	1208755	30254	121000	998031	42,32
2003	2042083	971446	23756	97000	949881	46,52
2002	1457661	777708	29402	78000	572551	39,28
2001	927978	589517	28816	59000	250645	27,01

Legend: n.a.: data is not yet available.

Bear in mind that there are other instruments that would eventually allow a better estimation of irregularity in Spain. The appropriate tools for an optimal correction of our estimation are the number of cardholders affiliated with the Public Health System and the number of foreign residents registered in the respective country of origin consulates.

We can conclude that irregularity has indeed been a structural feature of the recent history of Spain as an immigration country.

⁵ The Clandestino report also disaggregated by national origin the broad category of undocumented immigrants for 2005. See table A.2. in the appendix.

Policy Scales in Spain: The Interplay between Local, National and EU Policies

Regarding migration issues, the Spanish case is an atypical one. Until its accession to the European Community in 1986, Spain considered itself a country of emigration. In just 20 years, Spain has become a country of immigration, and during the first years of the 2000 decade, Spain received the second highest number of immigrants after the United States (with 600,000 arrivals per year on average). Dealing with this huge influx of migratory flows, different Spanish governments have had the challenge of managing this 'unexpected' phenomenon.

Becoming a country of immigration

Until its accession into the European Community in 1986, Spain had neither an immigration policy nor an immigration law. In 1985, as a precondition for EC membership, the first Spanish immigration law was enacted. It was a 'requested' law to meet the EC standards, because at that time, Spain was still an emigration country. In fact, in 1990, there were around 400,000 foreign people in Spain, less than 1.10% of the total population in the country. The 1985 law seemed to be passed in order to calm concerns of the European partners: the Mediterranean and Ibero-American dimensions of Spain (the first driven by geographical proximity, the second by historical and cultural ties) were seen as risk factors for an increased influx of new immigrants from these regions. Nevertheless, the incorporation of Greece, Portugal and Spain into the European Community during the course of the 80s, transformed them not only in transit countries, gateways to the traditional European immigration countries, but also into destination countries themselves.

Progressively, the number of foreign residents in Spain increased significantly: first the increase was moderate, but in the nineties the foreign population figure climbed 10 percent annually. From 1992 to 2000, the numbers of extra-communitarian migrants increased 214 percent annually, and in 2001, the foreign population in Spain numbered over one million people (1,109,060), meaning 2.7% of the total

population. Fifteen years later, after the first immigration law, Spain had become an immigration country.

The gradual process of transformation into an immigration country led the Spanish government to provide a legal framework for dealing with this phenomenon. Since 2000, the main concerns of the Spanish migration policy have remained unchanged, although the ways with which they have been handled have changed. Briefly, these shared priorities are (1) the integration of migrants into Spanish society and their participation in the labour market; (2) the reinforcement of mechanisms to promote regular immigration flows; (3) the fight against irregular migration; and (4) the need to collaborate with third countries, mainly (but not only) to avoid these irregular flows.

As soon as Spain developed from a transit to a destination country, integration policies became more important and visible. The role of local authorities, the rights of (irregular) migrants and the management of cultural diversity also became principal issues on the political agenda.

Managing irregular migration

The Spanish government has actively promoted a more visible role in managing irregular immigration (Finotelli, 2007). In order to prevent irregular flows and to deal with resident irregular migrants, the Spanish governments have implemented different instruments in two main areas, namely the regularization processes and the protection of the maritime borders, the effects of which have had an important European dimension.

Although four regularization processes had been implemented at the beginning of the 2000s, it was the 2005 regularization process that incited fierce criticism in Europe. The regularization process was intended to alleviate the social risks of this situation. At the end of the process, around 600,000 undocumented workers, who were able to show proof of labour relations in Spain, obtained regular statuses. Since 2004, fighting against the irregular economy has become a priority for the Spanish government due to the fact that the existence of a significant informal labour market in Spain attracts undocumented migrants and leads to situations of precarious labour conditions.

Since 2005, the Spanish government has worked to strengthen cooperation with third countries, providing technical support and promoting development cooperation, etc., in order to prevent irregular flows and to promote co-shared responsibility in managing flows with countries of origin.

Integration policies and the role of local authorities

While it still had limited immigration, the first Spanish migration law was focused on how to manage entries in and deportations from Spain. In 1985, the rights and duties of migrants were not on the Spanish agenda, and the main goal of the legislation at that moment was the regulation of migratory flows based on temporary residence (Aja in Aja and Arango, 2006).

Social integration of immigrants appeared for the first time in 1991 in a parliamentary debate, and was introduced in 1994 as an important pillar of immigration policy through the approval of the Social Integration of Immigrants Plan (Blanco, 2002). Although the Social Integration of Immigrants Plan was not very concrete on the definition of integration public policies, it heralded a new period in which public powers were interested not only in border control, but also in the recognition of integration as one of the pillars of immigration policy. In 1996, a reform of the law 7/85 included some measures focused on social integration.

In January 2000 a new immigration law about Rights and Freedoms of Foreigners and their Social Integration was approved (LO 4/2000). It was the confirmation of Spain as a country of immigration, and its main objectives were the regular management of migration flows and the promotion of migrants' social integration.

As in the previous ones, the immigration law did not make distinctions between clandestine and regular migrants regarding rights and access to social services. In fact, the reform led by the conservative Popular Party to deny irregular migrants access to specific labour rights was declared unconstitutional by the Spanish Constitutional Court in 2009, when such a law was proposed.

It could be said that Spain has one of the most respectful and safeguarding legislations on migrants' rights in the EU. And regarding rights, differences between regular and undocumented migrants were mainly focused on political and civic participation rights.

This legislative track could be used as an indicator to see the progressive attention paid to social integration by the Spanish authorities. In Spain, the central government has exclusive ownership of powers in managing migration and asylum matters. However, policies related to social issues (education, health, etc.) and focused on integration are shared among all administrations, and are mainly managed by the Autonomous Communities (regional administrations) and local authorities.

Local authorities develop their social policies to suit the resident populations in each municipality. Figures of population are based on the Population Census ("Padrón") at the municipal level, and registration to this census is open to all residents living in a

municipality, whatever their nationality or their administrative status (regular or irregular). So, residence becomes a key concept in the Spanish integration policy, as it is the gateway to social services.

This could explain the key role that local authorities have had in the integration of migrants in Spain. On one hand, municipalities have had to adjust their public services to new population figures. On the other hand, local authorities have had to adjust these public services to a new and diverse population. Intercultural instruments and actions have been developed to handle a new resident population, mainly characterised by a high level of heterogeneity (ethnic, cultural, etc.)

Most of the municipalities in Spain have developed public actions to manage their new diversity, and municipalities have generally assumed the economic burden of these new actions. In a short time and with a high intensity of arrivals of foreigners, the role of municipalities, and in some scenarios, regional authorities, has been fundamental in guaranteeing social cohesion in Spain.

Furthermore, the central government has developed some integration plans at its level, and in 2005, it created different budget lines to help regional and local governments develop integration initiatives. That year, a so-called “Fondo de Apoyo a la Acogida e Integración de los Inmigrantes así como para el refuerzo Educativo de los mismos” (Help Fund for admission and integration of migrants, as well as education reinforcement) was created. The Fund is distributed among Autonomous Communities who meet the necessary criteria and has made possible, for the first time, the financing of actions led by local authorities. The Fund’s measures are related to newcomers, but also to residents in general (social services like health care and education). Through the Fund, 876 million euros have been distributed to regional and local authorities over six years.

In addition, other central budget lines were focused on financing initiatives at the local level. Furthermore, in 2009, a pilot plan focused on neighbourhoods with high rates of immigration was developed in the Andalusia region, with the cooperation of all administrations. A similar pilot plan will be developed in Cataluña in 2011.

General social services have been reinforced with intercultural actors and actions, and only services focused on 'first reception' have been developed exclusively for migrants. Although each municipality has developed its own actions, in all of them the element allowing access to services has been residence, and not administrative situation. Undocumented foreigners in Spain have had access to basic public health, education and other social services.

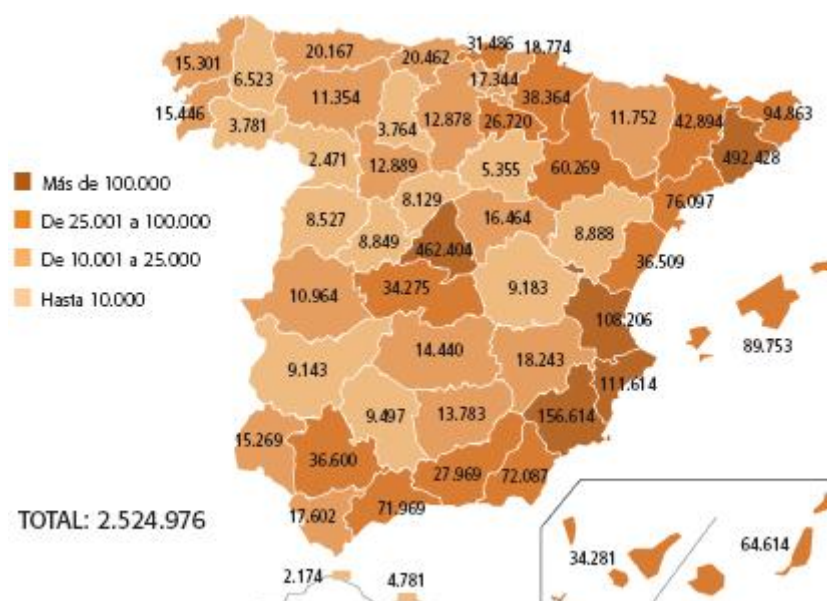
In fact, residence as a key element has also given an important and renewed role to local administrations, which have acquired a new relevance in discussion on integration and identity, traditionally subjects that stayed in hands of regional governments.

Irregularity in Madrid

Madrid, as the capital city of Spain, represents a point of interest for research on immigration in new destination countries. This does not mean (as one may see in the London report) that Madrid concentrates the debate on irregularity, since irregular migration has been a widely spread phenomenon in Spain. Having broadly described the Spanish immigration policy at the national level, one has to disaggregate the discussion at the level of regions (Comunidades Autónomas) for a deeper understanding of how immigration has been tackled in Spain. As the previous section showed, the Spanish model of decentralization has distributed responsibilities very unevenly across different levels of administration. The central administration is responsible for regulating conditions of access and stay, as well as broad principles concerning the integration of foreigners and their basic rights and duties. Regional governments and municipalities have to operate within this framework and are obliged to assume the financial duties derived from the national regulations. In particular, regional governments and city halls are the very agents that, throughout the past years, have facilitated the implementation of the generous system granting access to social benefits to all migrants (regular or not). As we have explained, for years this has been the unique principle granting migrants a proper path for their incorporation to their host society.

These rights are recognized at the central level, and therefore across regions and municipalities. In this sense, Spain represents a fairly homogenous country with respect to the treatment that irregularity receives across smaller geographical units. Madrid (together with Barcelona) is nonetheless the most relevant sub national unit for a study such as the one we are presenting in the coming pages. As can be seen from the map presented below, immigration is almost an exclusive phenomenon in Madrid and the Mediterranean coast, from the province of Girona by the French border to the provinces of Murcia and Almeria in the South. Yet, only the regions around the cities of Madrid and Barcelona host more than four thousand immigrants from non-EU backgrounds. Because of the description of the rigidities we presented in the Spanish model of control, we could argue that a significant majority of these immigrants in these large urban areas have undergone period(s) of irregularity. In this section we shall describe the particularity of the municipality of Madrid in dealing with the integration of irregular immigrants.

Figure 2. Number of non-EU nationals in Spanish provinces (31st-Dec-2010).



Source: Observatorio Permanente de la Inmigración, results on March 31st, 2010.
Date of publication: March 2011.

Madrid shares other features with the rest of Spain. The attraction factors for non-EU immigrants are basically the same as in other less populous or developed regions. Across the country, immigration has had a positive effect on economic growth throughout most of the past decade. Yet, contrary to what is normally believed, this positive impact, by which immigration changed the age structure of the Spanish working population, was counterbalanced by the negative effect of immigration on productivity due to the low skill profile of foreign workers in Spain (Izquierdo, Jimeno and Rojas, 2010). This positive impact of immigration has also been confirmed for the specific case of the region of Madrid: the effect of the incorporation of immigrants on the production represented an increase of 8.93% of the total added value, the effect of immigrants on consumption in the region 1.63%, and the overall contribution of immigration to the Madrid economy reached 10.7% in 2007 (Mahía and Arce, 2010). Yet, according to the same authors, the shadow economy in the field of immigration represents around 30% of received wages.

Like other regional and local governments, Madrid has also defined its own integration plans. One positive trait of the Madrid case is that both the regional and local integration plans state similar goals and procedures of incorporation (which is not the case in other autonomous communities where the political colours of local and regional governments differ).

The meaning of irregularity for the regional government

The Comunidad de Madrid (CAM, regional administration) immigration plan states that its responsibilities with respect to immigration include integration through the definition of plans and initiatives to incorporate foreigners and, eventually, to promote their return to their homelands. Yet, it also notes that the regional government acknowledges a great deal of local autonomy in the issue:

“The CAM recognizes the important role of municipalities in the integration of the immigrant population according to the principle of cooperation across levels of the public administration. [...] it is established that municipalities can promote all sort of actions in the efficient management of their interests and resources and provide services seeking to satisfy the needs and aspirations of its neighbours. In agreement with this principle, the CAM allocates a budget for local authorities to develop integration projects for their immigrant population” (CAM, 2009:54).

Although our paper deals specifically with the municipality of Madrid, the region of Madrid includes what we might call the greater Madrid. Because of the relative importance of the population of Madrid in the region, an exploration of the significance and treatment of irregularity in the region of Madrid is mandatory for our analysis.

The CAM Plan reinforces the broad equality in terms of rights between regular and irregular immigrants. Recall that Spain makes little difference between the rights given to citizens and those given to regular and undocumented immigrants. The CAM integration plan stresses the high level of equality, summarized in the following table. It is also important to remember that this framework also applies to the rest of the regional governments in Spain, and as a broad scheme is constitutionally defined and developed at the central level.

Table 4. Access of migrants to welfare services and other rights

Type of migrant	All (regular and irregular)	Only regular migrants
All	Right to documentation	Freedom to circulate in the country
	Urgent health assistance	Suffrage (if reciprocity)
	Effective judicial assistance	Teaching
	Freedom of meeting	Right to be hired by public employers
	Freedom of association	Access to the public aid for housing
	Freedom to enroll in trade unions	Specialized social assistance
	Right to participate in strikes	Access to the system of the Social Security
	Free legal assistance	Family reunion
	Right to education	Right to work
	Right to basic social assistance	
Below 18	Right to compulsory education (5-16 years)	
	Right to health care	
Registered	Local participation (initiative, proposals, petitions, intervention in the local plenary, right to public audience)	
	Complete health assistance	
Women	Healthcare during and after pregnancy	

As can be seen in the table above, with the exception of certain types of specialized social assistance, registered irregular migrants have access to a broad range of rights and services equivalent to regular immigrants and natives. The only relevant exceptions are the rights to work, reunited family members, free circulation across the country, and the right to vote. Electoral rights are only granted to nationals and EU citizens (only in regional and local elections), and to documented non-EU nationals on the basis of reciprocity.⁶

Concerning the unclear reference to the services included under the label “specialized social assistance”; the Plan provides the following information regarding the distinct approach to regular and irregular migrants.

⁶ Bolivia, Colombia, Chile, Ecuador, Paraguay, Perú, Island, New Zealand, Norway and Cabo Verde.

Figure 3. Differences in access to specialized social assistance between regular and irregular migrants



Madrid, regional integration plan 2009: Page 72

Other than that, the CAM Plan pays surprisingly little attention to irregularity, mentioning it three times as a particular cause of deprivation (pages 86, 87 and 225) and signalling it as a risk factor for health problems (page 156) and gender violence (pages 229 and 232).

The meaning of irregularity for the local government

If the regional plan for the integration of immigrants in Madrid pays scarce attention to the administrative status of migrants in their territory, the local plan does so even less. Like many other local plans for integration, the “II Plan Madrid de Convivencia Social e Intercultural 2009-2012” (Municipality of Madrid, 2009) depicts Madrid as an open city and brings immigration to the forefront with other sources

of diversity (such as internal mobility), thereby contributed to Madrid's mixed society. Irregularity lacks relevant meaning throughout the plan. The Madrid Plan acknowledges a number of inspirational principles structuring its presentation and logic, namely:

Intercultural coexistence or the peaceful, productive and reciprocal interaction between individuals from different cultural backgrounds.

The principle of active integration for newcomers, which is not only defined in terms of assistance to first movers, but also by the aim of giving all migrants equal rights, duties and opportunities, not unlike those borne by the autochthonous population.

The principle of universal assistance, which, according to the Plan itself, is Madrid's most peculiar characteristic. This principle aims to protect basic human rights, and specifically human dignity. For the local administration, this principle "*implies a commitment to assist adequately all individuals in our city, regardless of their nationality or administrative situation*" (Municipality of Madrid, 2009: 14). The plan states that above and beyond this ethnic compromise, this principle is issued from the national regulation (article 14 of the Organic Law 4/2000).

The last principle serves as a summary of the official approach to irregularity. Indeed the regulations and practices of the municipality with respect to its responsibilities in terms of immigration (mostly integration) are blind to the administrative status of migrants. It follows, then, that The Madrid Plan (as does the Regional one) only mentions irregularity as a condition exposing migrants to social deprivation (Municipality of Madrid, 2009: 48).

We have one final remark on how the estimations for irregularity in the municipality of Madrid differ from the overall rate of irregularity at the national level. Disaggregated data at the local level is very difficult to get. Our best approximation can be obtained by using the number of individuals that have asked for information regarding social "arraigo". The assumption behind this protocol is that all those who request information are irregulars. Three different indicators are provided here for the years 2007-2009. The first refers to the number of people asking for information generally related to "arraigo". The second are the number of answers given and services provided to these residents. Finally, the most accurate indicator is the number of real reports provided by the municipality officials granting access to social "arraigo". If expressed as a percentage of all third country national residents, we can approximate the real percentage that irregular migrants represent.

To conclude, this section intends to provide some information on how the municipality of Madrid can estimate the population of immigrants. This is not only relevant *per se*, but is also important because the lack of accuracy of the instruments available reveals the extent to which irregularity is an almost irrelevant status for local politics.

Since 2001, the central government opened a new path to regularization that has functioned as a *de facto* permanent process of regularization: the “arraigo” (literally regularization based on “rootedness”, embeddedness). The requirements to apply for “arraigo” may change over time but they are always defined by a report issued by the municipality that explains what information must be provided by the applicant. When asked about local level tools for evaluations of irregularity numbers, officials turn to “arraigo” reports. Table 5 shows the evolution across the period 2007-2009 for three different indicators: number of residents asking for information about the process in local offices, services and answers given, absolute number of reports provided. Along with this information, the table provides the registered number of non-nationals (including EU citizens)⁷ and an irregularity rate showing the percentage of the number of reports given in the “arraigo” process (3) out of the total number of non-nationals registered (4).

Table 5. Arraigo reports as a mean to estimate irregularity in the municipality of Madrid

	2007	2008	2009
1. Number of individuals enquiring about “arraigo” social	13833	20711	25127
2. Services and answers given to questions on “arraigo” social	18773	30919	39077
3. Reports given to prove “arraigo” social	8411	11799	14054
4. Registered foreigners (includes EU nationals)	550804	548456	574869
Irregularity rate (% of numbers in 3 out of numbers in 4).	1.53	2.15	2.44

Source: Municipality of Madrid.

According to this information, irregularity is low in Madrid (increasing from 1.53% to 2.44% over the period 2007-2009). This vastly underestimates irregularity in the city capital. According to estimates provided by the Regional Government in 2008 (January 1st) the population of foreigners registered in the regional “Padrón” was 991,259. Of these, 279,248 had no residence permits (permits amounted to 712,011). Non-EU citizens made up 662,772, of whom 431,252 were permit holders. The difference thus was 231,252. This difference implies rates of irregularity reaching 34%. Of course, this might render an overestimation of the rate of irregularity since not much care is taken in cleaning up the rough figures. Some of those classified here as irregulars are possibly renewing their permits. Yet, this basic information contrasts with the extremely low rate of irregularity estimated from the “arraigo” social system, a way that officials from the city council might recommend for learning about irregularity in the municipality.

⁷ The stock of non-nationals could not be broken up into EU and non EU citizens, though this would be the best approach for estimating irregularity.

Conclusion

In many ways, Madrid and the local approach to irregularity in Spain is an outlier in the European context. While main immigration destinations in Europe such as Germany, France and the UK reveal an active role of municipalities in lobbying to regularize undocumented immigrants (as the Berlin, London and Paris reports suggest), the municipality of Madrid, in agreement with the legal framework set at the national level, operates within strict limits, thus being restricted to interventions concerning the integration of all residents (most importantly, access to social services).

While Spain may lack a proper model of integration, legislative changes dating back to 2000 have developed an egalitarian approach allowing all residents in Spanish cities to be treated equally with respect to the majority of social services once registered in the “Padrón”. Holding a legal permit of residence is not a prerequisite for registering and thus documented and undocumented immigrants and nationals become neighbours on equal terms. In other words, equality is granted by national-level laws and municipalities react to this without any possible contestation.

This top-down model establishes a high level of local homogeneity in terms of irregularity. Officials from the local government in Madrid showed a significant level of surprise when asked about policies designed for irregular migrants. In their view, as has been shown in the regional and local plans for integration and citizenship, irregularity is irrelevant when it comes to local level policies.

In the Spanish framework, NGOs and other social actors could complement the services provided by local authorities, or they could be in charge of developing special services (language courses for instance) within municipalities. However, these social actors are not playing a significant role in providing basic social services to migrants, as could be the case in countries where local authorities do not recognise irregular migrants.

The current economic crisis, that has hit Spain harder than other main European destinations for immigration, might change things. If asked to think prospectively, our view is that the system granting access to basic social services to all residents may not suffer changes (unless a new law is passed at the state-level). Yet, municipalities in regions with high concentrations of immigrants have begun to rally in favour of a change in the *status quo* and, indeed, in some cases there are strong electoral incentives to do so (Cebolla-Boado

and Jiménez-Buedo, 2010). As explained, these local actors have few opportunities to differ from the standard approach within the limits of the law. Other areas relevant to immigration, including security, represent political spaces where local authorities might be able to employ more creative approaches.

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Appendix

Table A1.

Table VIII Main origins of irregular TCNs. January 2008				
	Padrón (A)	Residence permits (B)	Irregulars = (A) – (B)	% of irregularity
Bolivia	234,000	69,000	165,000	70
Argentina	195,000	96,000	99,000	51
Brazil	118,000	39,000	79,000	67
Paraguay	66,000	14,000	52,000	79
Uruguay	61,000	31,000	30,000	49
Venezuela	60,000	33,000	27,000	45
Colombia	280,000	254,000	26,000	9
Rusia	44,000	30,000	14,000	32
Chile	48,000	25,000	13,000	27
Ucrania	74,000	62,000	12,000	16
Ecuador	408,000	396,000	12,000	3
Pakistan	46,000	36,000	10,000	22
Senegal	43,000	33,000	10,000	23
Cuba	52,000	45,000	7,000	13
Peru	122,000	116,000	6,000	5
Rep Dominic	76,000	71,000	5,000	7
Argelia	49,000	46,000	3,000	6

Source: National Institute of Statistics Municipal Padrón and Permanent Immigration Observatory. Own drafting.

Note: In the table only those groups appear whose population's size is bigger than 30,000 persons. Irregularity among Moroccans and Chinese immigrants is, according to these sources, non-existent as the number of those registered in the Padrón is lower than that of permits of stay.

Table A2. Summary of the extraordinary regularization processes held in Spain, 1985-2005

	Demands admitted from--- until...	Overall duration of the process	Applicants should have residence in Spain before.....	Other requirement
1986	23rd July 1985-31st March 1986	8,5 months	24th July 1985	None
1991	10th June-12th Dec 1991	6 months	15th May 1991	Job offer with a nominal compromise of acceptance or viable Business Project to be established on its own
1991/2	10th June 1991-10th March 1992	9 months	15th May 1991	Only dependent relatives of foreigners regularized in 1991
1996	23rd April-23rd August 1996	4 Months	1st Jan 1996	Only foreigners that a valid residence permit or work permit alter 26th May 1986
2000	21st March-21st July 2000	4 months	1st June 1999	Only for previous soliciors of work or residence permits or Holders of these permits in previous 3 years
2001	1st Feb-28th Feb 2001	1 months	22nd Jan 2001	Only for Ecuadorians
2001	Ongoing. Begins in March 2001			Only for applicants to the 2000 process that could not prove requisites.
2001	12nd June-1 August 2001	1,5 months	23rd Jan 2001	
2005	7th Feb-7th May 2005	3 months	Before 8th August 2004	Job contract (full-time, 6 months)

Sources: Anuarios de Migraciones. Anuarios de Inmigración.