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Spain: Forging an Immigration Policy

By Nieves Ortega Pérez
Universidad de Granada

February 2003

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Immigration became part of the Spanish government's agenda in 1985, but it was not until the mid-1990s that it became a matter of vital importance to political elites and in the eyes of the public. The sharp increase in the number of foreign residents in the last years, the recent polemical debate surrounding the reform the immigration law, the establishment of a political immigration framework known as the Plan Greco, and the shortcomings of the 2002 labor quota program have made immigration one of the most hotly contested issues in the media, and the second most important "national" issue for Spaniards after terrorism.

Shifting Flows

In the period 1850-1950, 3.5 million Spanish, mainly temporary workers, left for the Americas from three areas: Galicia, Asturias, and the Canary Islands. Argentina received more than 1.5 million of these emigrants, and others went to Uruguay, Brazil, and Cuba. Spanish emigration to North Africa, though less well known, also took place from areas such as Murcia and the Balearic Islands. Algeria was the chosen destination of 94,000 Spanish emigrants in the last years of the 19th century. This flow shifted to Morocco after the establishment of the Spanish protectorate there in the period 1916-1919. During that period, some 85,000 Spaniards were counted, a number that rose to 250,000 when taking into account the residents of Ceuta, Melilla and Tangier.

Spain's migration flows in the 20th century changed radically in two different ways. First, the destinations of Spanish emigrants shifted dramatically. In the course of the century, some six million Spaniards left their country of origin, and until the 1930s, 80 percent chose to go to the Americas. From the 1950s to the mid-1970s, however, 74 percent chose the countries of Northern Europe. Second, in the last third of the 20th century, Spain evolved from its traditional role as a sending country and, increasingly, a transit country for migrants headed north. Spain became a receiving country for foreign laborers, mostly from Northern Africa and Latin America, and for well-to-do immigrants from other EU countries, such as retirees.

The inversion of Spanish migration flows was brought about by the international economic crisis of the early 1970s. While the number of emigrants fell, the number of immigrants continued to increase at a steady pace. From 1961 to 1974, at the height of the guest worker programs in Europe, about 100,000 people emigrated each year. Since then, the numbers indicate that Spain's period of high emigration has ended, with total departures falling off from 20,000 per year to just over 2,000 annually in recent years.

Spain's development into a country of immigration was part of a larger regional phenomenon. In the late 1980s, in the midst of economic crisis and the accompanying high unemployment, Mediterranean countries of Europe such as Spain, Portugal, and Italy, hitherto "way stations" or "waiting rooms" became receiving countries. This change

was brought about by several factors, including the end of guest worker programs, the closing of the borders of traditional receiving countries, such as Germany, Switzerland, and France, the political evolution from authoritarian regimes, their proximity to the sending countries in the Maghreb, and the intense historical and economic bonds between both shores of the Mediterranean. Other contributing factors include the poor performance of the labor markets in the sending countries, the extent of the underground economy in the European countries (that relied on illegal immigration), and the admission of Portugal, Spain, and Greece into the European Community in the course of the 1980s made them "gateway" countries as well as frontline states on Europe's southernmost border.

Characteristics of Immigrants

The number of foreign residents in Spain increased significantly in the last quarter century. From 1975 to 1985, the increase was a moderate average of 2.2 percent annually. From 1985 to 1991 (which included the enactment of the *Ley de Extranjería*, the national immigration law, and the first extraordinary regularization process) the foreign population rose an average of seven percent annually. As of 1992, this figure had climbed to 10 percent annually. From 1992 to 2000, the numbers of people from developing countries increased 214 percent annually, much higher than the 60 percent increase in the number of foreigners from industrialized nations.

As the 2001 data show, the countries of origin of resident foreigners have shifted significantly in a short time. Moroccans and Ecuadorans have become the two largest nationalities, even as immigration from other EU countries continues to account for a large share of the total.

Table 1: Evolution of the foreign residents 1995-2000 by continent of origin

CONTINENT	1995	1996	1997	1998	1999	2000
Europe	255,702	274,081	289,084	330,528	353,556	361,437
Americas	108,931	121,268	126,959	147,200	166,709	199,964
Africa	95,725	98,820	142,816	179,487	213,012	261,385
Asia	38,221	43,471	49,110	60,714	66,340	71,015
Oceania	859	929	888	1,023	1,013	902
Stateless and others	335	415	956	695	699	1,017
TOTAL	499,773	538,084	509,813	719,647	801,320	895,720

Source: *Anuario de Extranjería 2000*, Ministry of Interior.

Even in the mid-1990s, half of all resident foreigners were European (Table 1). Of this percentage, the largest groups were from EU member countries: the United Kingdom (23 percent); Germany (17 percent); and Portugal (12 percent), whereas immigrants from Eastern Europe accounted for only four percent. Africans accounted for 19 percent, most than three fourths of them Moroccans. The latter group has seen the largest and most sustained increase over the last 25 years, to the point of becoming the most numerous foreign nationality in Spain at this time.

People from the Americas also saw their numbers grow at a constant pace, as they came to account for about 21 percent of all foreigners. Traditional groups such as Argentines, Venezuelans, and Chileans decreased as a relative share of the Latin American population, while others such as Peruvians, Dominicans, and Cubans saw their numbers grow more quickly. In absolute terms, there were few people from North America (United States, Canada, and Mexico) or Oceania. The relative share of the population of Asian origin diminished.

More recently, the proportion of Europeans among all foreign residents declined to 40.4 percent in 2000, and the African proportion increased to 29 percent. The difference between the number of Europeans and Africans, the two largest foreign communities, has diminished not because fewer Europeans have arrived, but because the African population has increased much more rapidly. The number of European immigrants increased 105,735 from 1995 to 2000, surpassing even the population increase for Latin Americans, which was 91,033. At the same time, there was an increase of 165,660 in the number of Africans. People from the Americas accounted for 22 percent of the total, Asians eight percent, and persons from Oceania an almost invisible 0.1 percent. The remainder of those counted were stateless people.

Table 2: Foreign population in Spain

Year	Foreign Residents	Percent Increase
1995	499,773	8.2
1996	538,984	7.4
1997	609,813	13.40
1998	719,647	18.01
1999	801,329	11.35
2000	895,720	11.78
2001	1,109,060	23.81

Source: *Balance 2001* from the Delegación del Gobierno para la Extranjería y la Inmigración, (DGEI), Ministry of Interior.

The latest official figures are provided the Delegación de Gobierno para la Extranjería y la Inmigración. The advantage of these numbers is that they were tallied subsequent to the last special regularization effort, which means they include a large part of the undocumented immigrant population. Spain's undocumented population is estimated to be over 200,000.

In 2001, resident foreigners in Spain accounted for 2.5 percent of the total population, and saw one of the largest annual increases in their numbers (23.81 percent) in recent years (Table 2). The biggest communities of resident foreigners were Moroccans (234,937), Ecuadorians (84,699), the British (80,183), Germans (62,506), Colombians (48,710), French (44,798), and Portuguese (42,634). These figures reflect the increasing size of the traditional Moroccan community, as well as the trend of increased immigration from Latin America. The fact that neither of the top two nationalities was an EU country, as had been the case just five years ago, brings Spain more in line with the tradition of immigration from third (i.e. non-EU) countries, a tradition also visible in other European Union countries.

Two points should be noted with respect to the settlement patterns of foreigners in Spain. First, immigrants have little mobility. By and large, immigrants tend not to move once they have settled. Second, the regions with the largest numbers of resident foreigners remained unchanged throughout the 1990s. Specifically, the "Mediterranean Autonomous Communities" of Catalonia, Valencia, Murcia, and Andalusia, as well as Madrid continue to host the largest numbers of immigrants.

Labor Force Participation of Immigrants in Spain

While migrants from other countries of the European Union are allowed to work in Spain, under the provisions of the Maastricht Treaty, workers from non-EU countries require a work permit, although many immigrants work illegally in Spain. Legal and unauthorized migrants are playing an increasing role in Spain's economy. Alongside economic factors, social networks have played a role in shaping labor market outcomes. Together with the

segmentation of the Spanish labor market and a quota system that recruited workers by sector and province, these factors make for a visible labor-based stratification by ethnic group, thus creating labor-market niches.

At the close of 1999, non-EU foreign workers numbered 199,753, representing a slight increase (1.4 percent) over the previous year. By continent of origin, Africans comprise the largest group. They account for 50.5 percent (100,768) of all non EU foreign laborers, the majority (80,441) of which are from Morocco. The second largest group of workers come from the Americas and accounted for 29.0 percent of all work permits. Peruvians, Dominicans, and Ecuadorans dominate this category. Asians account for 28,177 permits. Lastly, workers from other non-EU European countries, such Poland and Romania, numbered 12,644. Although this group was the smallest group (6.33 percent of the total), it saw the greatest percentage increase with respect to the previous year (8.94 percent).

The service sector captures nearly 59 percent of all work permits for non-EU workers, followed by the agricultural sector (21 percent). Unlike other countries where immigrant labor has permeated construction and parts of industry, these sectors account for only nine and seven percent, respectively. By group, however, the percentages vary. Accordingly, 86 percent of the Latin Americans and 89 percent of the Asians are involved in the service sector, 39 percent of the Africans are employed in agriculture, and 15 percent of East Europeans work in construction.

The numbers of immigrants in the work force vary by province, too, depending on the leading economic sector. The autonomous communities with the largest number of workers are Catalonia (53,804), Madrid (48,402), and Andalusia (24,024), though the largest increases in the last two years have been in Murcia (32.69 percent) and the Canary Islands (22.71 percent).

Forging an Immigration Policy

Spain's first attempt at immigration legislation was under the then Socialist Party government. With Spain's admission to the European Community scheduled for 1986, the country was under pressure to conform to EC legislation that restricted non-EC citizen immigration. In 1985, Spain's first law, the *Ley de Extranjería*, or the Law on the Rights and Freedoms of Foreigners in Spain, approached most immigration as temporary phenomenon, and focused primarily on control over migrants already in the country. Immigrants were broadly conceptualized, first and foremost, as workers who required regulation by the Ministry of Labor.

The focus on control of immigrant access to the labor market hindered family reunification and proved to be an obstacle to stable residency of the foreign-born population. New policies required that migrants seek work visas and residency permits only after any job offer and, further, made it exceedingly difficult to renew required permits. As a result, many immigrants ended up in an illegal status. In addition, the 1985 law called for employer sanctions that were weakly enforced.

While the 1985 legislation was more restrictive toward immigration and extremely weak with regard to immigrant rights, a 1996 amendment to the 1985 law recognized immigration as a structural phenomenon and acknowledged that the foreigners had a set of subjective rights. These rights included access to education, equality, legal counsel, and an interpreter when dealing with authorities. It strengthened the power of the regional governments to protect the rights of immigrant minors and formally established a quote system for temporary workers. Finally, the amendment established a permanent resident category and formally included family reunification within its framework.

Finally, in January 1998, an initiative emerged that tackled the issue of integration. Supported by three political parties, including Izquierda Unida, Convergencia I Unió, and Grupo Mixto (but not by the Partido Popular, which has governed since 1996), the *Law on*

the Rights and Freedoms of Foreigners in Spain and their Integration (Law 4/2000) was passed and took force on January 12, 2000. This law is notable for the broad political consensus that backed it, for its clear focus on integration and the political and social rights extended to non-EU foreigners, and for its recognition of the permanent dimension of immigration.

Most importantly, this law marked the transition in Spain from a policies focused on controlling immigration flows (*política de extranjería*) to policies that looked more broadly at immigration and integration (*política de inmigración*) for Spain. This is not so much because of the law's acknowledgement of immigrant rights but because of its conception of immigration as a permanent phenomenon, with political and administrative instruments devised to regulate it.

The *Law 4/2000 on the Rights and Freedoms of Foreigners in Spain and their Social Integration* was widely criticized by the ruling Partido Popular, which considered it too permissive and not along the more restrictive lines being promoted by the European Union. The party's parliamentary majority after the March 2000 elections enabled it to pass Law 8/2000 to amend the previous legislation. The regulation enacting the law took force in mid-2001, and set forth a reform agenda for issuing work and residency permits and visas.

Furthermore, in aligning itself with common European policy on immigration and asylum, the law addressed access and control measures, reflected an effort to ensure integration of legal immigrants and limit unauthorized immigration, and paved the way for the signing of cooperation agreements with the main sending countries to manage inflows from the point of origin.

Spain has signed several bilateral agreements of this kind with Ecuador, Colombia, Morocco, Dominican Republic, Nigeria, Poland, and Romania. These agreements, with the exception of the Nigerian agreement on repatriation, are focused on negotiating administrative formulas for access to Spain and its labor market. These agreements regulate labor opportunities and, as such, provide for the communication of employment offers, the assessment of professional requirements, travel, and reception. They also work to enhance migrant labor and social rights and the work conditions of the immigrant workers. In addition, the agreements special provisions for seasonal workers and the measures to facilitate their return to their home countries.

The Plan Greco

The 2000 law was the starting point for the emergence of the Global Programme to Regulate and Coordinate Foreign Residents' Affairs and Immigration in Spain. The so-called Plan Greco is a multiyear initiative initiated in 2001 and expected to run until 2004. Falling within the Interior Ministry, and specifically, the Immigration Department, the Plan Greco is designed to address four key areas:

1. Global, coordinated design of immigration as a desirable phenomenon for Spain, as a member of the European Union;
2. Integration of foreign residents and their families as active contributors to the growth of Spain;
3. Admission regulation to ensure peaceful coexistence within Spanish society, and
4. Management of the shelter scheme for refugees and displaced persons.

Based on the territorial organization of the Spanish state, and its political and administrative decentralization, the Plan Greco acknowledges the vital role that regional governments will play in integrating the immigrant population. The 2000 law and the Plan Greco are both explicit in their recognition that it is the development and implementation of integration policies at the local level that will have the greatest impact on integration.

In May 2000, a state secretariat, the *Delegación de Gobierno para la Extranjería y la*

Inmigración, with broad powers was established under the Ministry of Interior to deal with immigrant issues. The head of the new secretariat is a leading member of two governmental agencies: the Inter-Ministerial Commission on Immigration Affairs, which is entrusted with analyzing government actions that impact the treatment of foreigners, immigration, and asylum; and the Superior Council on Immigration Policy that coordinates different levels of government on immigration affairs. The secretariat's chief also serves on a government immigration oversight body, and nominates candidates for president of the Forum for the Social Integration of Immigrants. This concentration of power under the Ministry of the Interior signals a shift from its former seat in the Labor Ministry.

Extraordinary Regularization Processes

The harsh policies introduced under the 1985 law left large numbers of immigrants without the proper documentation to reside and work in Spain. As a result, the government launched a regularization program that ultimately had little impact, given the distrust that had developed between the government and immigrants due to the 1985 legislation. Only 23,000 immigrants of 44,000 applications were legalized.

Subsequent extraordinary regularization processes were initiated in 1991. With the help of immigrant support organizations, more than 110,000 immigrants applied for legal status. However, after three years, 50 percent of those immigrants that had legalized their status under the 1991 procedures had fallen back into an illegal status.

Additional regularization programs have taken place in 1996, 2000, and 2001 to compensate for ineffective and restrictive admissions policies. These programs have granted initial residency permits valid for one year, but the limited duration and the difficulties in renewing such permits has forced many immigrants back into an irregular status.

A special regularization procedure on grounds of family reunification took place in 1994. Although the official goal was to unify families, many unauthorized immigrants with family members legally in Spain used the opportunity to legalize their status.

Labor Quota System

In addition to regularization programs, and paralleling Spain's work permit system, the country has experimented with a labor quota system to respond to short and long-term shortages in the labor market. Quotas have been used in 1993-1995, 1997-1999 and in 2002.

Before 2002, the quota has channelled legal immigration flows to sectors of the Spanish economy facing a shortage of native workers. The quota system had another effect: many illegal immigrants viewed it as a way to gain legal status in the country. Most applications for a position within the quota system came from undocumented immigrants already in Spain.

In 2002, the quota system was reformed. To ensure continuity and stability, the government is now required to establish annual quotas for foreign workers. In particular, before work permits can be granted, the National Employment Institute (Instituto Nacional de Empleo) must issue a report on the nation's employment situation. If it determines that there are no unemployed workers available for open positions, then foreign labor can be considered. Second, in an effort to reduce illegal immigration, the government now only hires foreign workers from their countries of origin and through bilateral agreements with sending countries. Undocumented immigrants in Spain can no longer use this channel to seek work.

However, both employers and labor unions agree that the 2002 labour quota was a failure. While the government set a quota of 32,079 workers

Spain and Asylum Seekers
The Law on the Right to Asylum and Refugee Status, passed in March of 1984, and amended in

(10,884 permanent workers and 21,195 temporary workers), it was widely viewed of falling short of meeting labor needs. In particular, some labor unions estimated that another 10,000 workers were necessary in the agricultural sector. In 2003, the quota has been fixed at 24,337 foreign workers (10,575 permanent workers and 13,762 temporary workers). By reducing the quota for temporary workers by almost 10,000 less than the 2002 number, the government has signalled that it continues to seek to limit immigration.

Future Challenges

Currently, the Law 8/2000 is being challenged before the Constitutional Court by *Partido Socialista Obrero Español*. The quota system has also come under criticism by several immigrant support groups and political parties. Although the Plan Greco promises to focus on integration and local governments are developing this issue, it appears that the government will continue to push forward with an agenda to slow immigration and to focus on border protection. With a 23 percent increase in immigration in 2002, it is unclear how the government's policies to limit immigration will square with the new immigration context.

1994, is the main piece of legislation governing refugee status in Spain. Once an asylum application is filed, asylum seekers have the right to interpreters, legal counsel and medical assistance. Applicants can stay in Spain for up to sixty days while their application is pending. Favorable rulings guaranteed the right to social, health and education welfare and work permit. Those who are denied asylum must leave Spain, usually within sixty days.

In 2000, 7,926 asylum applications were filed, and favorable rulings were handed down in 453 cases, covering 752 individuals. Claimants of the following nationalities were the most numerous: Colombian (17 percent of the total), Nigerian (11 percent), Sierra Leonean (19 percent), and Cuban (11 percent). People of other nationalities seeking asylum were principally from Algeria and former Eastern bloc countries, such as Armenia, Romania, Russia, and Ukraine.

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MPI • 1400 16th St. NW, Suite 300 • Washington, DC 20036
ph: (001) 202-266-1940 • fax: (001) 202-266-1900
source@migrationinformation.org