

UWT

Undocumented Worker Transitions



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Spain Country Report

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Undocumented Worker Transitions

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1. Introduction

Within the context of the European Union and the phenomenon of modern migration in relation to both documented and undocumented migrants, the experience of Spain is very relevant, despite occurring over a relatively short period of time. Spain has moved from being a refugee and migrant producing country, to being a major host country for migrants in Europe. The "migration experience" of Spain was mainly of internal waves of migration during the fifties and sixties from Southern and Central regions to the North of the country and the main economic and cultural capitals, producing a relative depopulation of the areas of origin. Concerning emigration, the main destination of Spanish migrants has traditionally been Latin America. It was only during the sixties and seventies, whilst internal migration continued within Spain, that Spanish emigration gradually began to focus on Western Europe.

In the last two decades of the twentieth century Spain became a prime destination for foreign immigration, with a doubling of the migrant population in the last decade alone. The country's political transformation to democracy was the fundamental reason for the resultant opening to migration¹, but the development of the Spanish labour market certainly influenced the development of new waves of migration.

This is characterised by the development of the service sectors and the growing demand for domestic/household employment, due to the increase in European women's participation in the labour market. It was also linked to factors such as the reduced participation by young indigenous people in the labour market and their higher levels of qualifications, which left vacancies in the lower ends of the labour market. Finally, a key factor was the growth of specialised labour sectors which made it more difficult for indigenous workers to meet the labour demands.

This required a rapid process of social, legal, policy and economic adaptation to a new reality, which inevitably bypassed the corresponding social

¹ Spain ratified in 1977 the UN pacts on Economic, Social and Cultural Right, in 1980 the European Convey on the Juridical Statute for Migrants Workers and signed the 1951 Geneva Convention and its 1967 Protocol

development. Spain did not have the experience or the developed social policy or social and economic structure for migration and integration, compared with countries such as North America. However, it a need to provide a realistic but equitable system and environment in a much shorter period of time, not only to meet the requirements of the new situation of migration, but also to cope with the rapid and constant increase in migration flows.

In general terms, the attitude and policy towards contemporary immigration in Spain has been coloured by the need to develop a gradual awareness of the scope, complexity and importance of migration flows. This has developed from the coherent and ethical discourse at the beginning, in the mid-seventies, to the more utilitarian, restrictive and 'European' discourse at the end of the century. The latter has been influenced by economic and political interests, which are often justified by the increase in migration flows.

The increasing flow of migration is obviously not exclusive to Spain, but a European reality. However, the geographical characteristics and the economic development of Spain have contributed to it becoming a key destination for migration to its Southern borders. A further major flow of migration to Spain relates to historical and economic links to Latin America, with close connections through language and established family and kinship networks. This pattern could be compared to many trends in other EU states related to their history, particularly migration from former colonies. However, although Spain was a colonial nation for many centuries, it lost much of its power at the beginning of the 19th century. Because of this, Spain had far fewer direct overseas interests by 1900 than other EU Member States such as the UK or France, and so also weaker connections of dependency with the population from its former colonies².

These factors bring the number of migrants living in Spain from outside the EU to 8.5 per cent of the total population at the beginning of 2007, compared with 1.5 per cent in 1999. Furthermore, several statistical studies of

² International NGO Training and Research centre (INTRAC) (2005) Capacity Building: Perspectives from the NGO sector in Spain. Praxis Paper num. 5, May 2005 (pg.6)

demographics project a trend for immigration to continue to increase in Spain over the next decade. The study by Fundación de las Cajas de Ahorros (FUNCAS)³, for instance, forecasts over six million migrants in Spain by the year 2010. This would equate to 13 per cent of the total, making Spain the country with the highest percentage migrants in Europe, overtaking countries such as Germany, France and the UK. In the period 2000-2007 Spain has become the European State with highest active migration flows. The most recent UN data places Spain as the country with the third highest level of inward migration flows in the world in the period 1990-2005.

³ Tezanos and Tezanos (2004).

2. Summary of the immigration and employment legislative system

This section includes a summary of the immigration legal and policy framework as well as of employment policy and regulation in Spain. Although it provides a broad picture in order to understand the development of policies and legislation that are particularly relevant in the case of Spain, it focuses on the last two decades, and provides more specific details about current framework and legislation in force. It also has a strong focus on the comparative framework of legislation and policy in regard to documented and undocumented migration.

When referring to “undocumented” migrants we mean those living in Spain without the necessary residency permits, and undocumented migrant workers are those that may lack both residency and/or compliant (up-to-date) work permits, or the national identity card, and are in employment.

2.1 Historical account of immigration policies

The development of the modern legislative framework on migration in the last two decades in Spain has had dramatic effects on the processes of economic, political and social integration of the migrant community, and hence in shaping contemporary Spanish society. Social policy and legislation on immigration reflect the social rights of migrants, which in many ways reflect the level of inclusion by the host country, Spain.

The contemporary welfare state and subsequent laws and policies were developed in Spain almost simultaneously with the arrival of recent migration flows. Migration from other countries began when the Welfare State in Spain was in its initial stage of formation and development. At the same time as migration flows to Spain increased, the welfare state was in the process of developing an equivalent European-level system and undergoing a vast process of developing public networks. Spain was unexpectedly receiving a similar number of migrants as neighbouring European countries, without having the same social welfare provisions as these countries. Therefore, the

lack of welfare provision was not only in relation to migrants, but there was inadequate welfare provision for the host population⁴.

Regulation of entry and residency of migrants until the mid-eighties was very open legal residency could be obtained relatively easily. Migration issues were almost non-existent in the institutional framework until 1986 with the entrance of Spain into the EU, when migration became a question of European interests. In 1984 the Law of Asylum came into force, followed by the Law of Rights and Obligations for Foreigners, the so-called Foreigners Law, in 1985. Spain began to be defined as a host country for migrants, whilst trying to rebuild its own impoverished labour market. The main legislation that regulated the stay of migrants in Spain up to 1999 was the Organic Law 7/1985, approved during the Socialist Party rule with a view to entry to the European Community. This Law aimed at limiting the length of stay of migrants, at a time when migration to countries outside the EU was seen as a temporary phenomenon.

In 1996 some reforms to the existing Law were introduced, and in 1998 several opposition parties presented proposals for a new Immigration Law. Following a long period of negotiation with the ruling conservative party (PP), the new Immigration Law came into force in 2000. This Law brought into being a process of regularisation for all undocumented migrants in Spain, and continues to be the main immigration law. However, in March 2000, just one month after the main Law came into force, the PP won the general elections outright and proposed a new law to reduce the rights of those undocumented migrants and expand the discretion of the public administration to expel them. Following public demonstrations against this proposal⁵, the PP modified it to include the right to education and health care for migrants, including the undocumented, although still denying the rights of assembly and trade union representation, hence any basic political rights. This radical reform came into force in December 2000⁶. The Law was amended again in January 2001⁷ and

⁴ See Aguirre, M. And Clavijo, C. (eds) (2002)

⁵ The Commission for Studies of the General Judicial Power presented a report at the time establishing that this proposal was in fact unconstitutional.

⁶ Law 8/2000, of 22 December 2000

⁷ Law Reform 4/2000

yet again with a new organic Law in 2003⁸. This has meant three major reforms in less than three years, all of which have been aimed mainly at limiting the rights and benefits of migrants, increasing the powers of the public administration, and restricting access and length of residency of migrants, particularly those from outside the EU.

Fundamentally all the changes that the PP introduced during its term in office were designed to tighten further the asylum regulations and restrict entry. It is worth noting that the PP made at least three main reforms to the Spanish law on immigration, something unheard of for an organic law, which normally would require extensive social and political agreement by all parties represented in parliament.

On 14 March 2004, the socialist party (PSOE) returned to power after almost a decade in opposition. One of their main targets was to reform the existing Law of Foreigners. The primary aim was to introduce a new Decree that would devise a "regularisation procedure" by which all so-called "illegal immigrants" would be given residence permits on application. In autumn 2004, the new socialist government announced a regularisation campaign for undocumented migrants in Spain and on 30 December 2004 the new Law reform was presented to Parliament and approved as the Royal Decree 2393/2004 of the Organic Law 4/2000. The approval of this Decree was the result of converging efforts to try and make immigration legal. The main objective of the new regulation is to speed up authorisations to fill vacancies for which employers cannot find workers who are current residents in Spain. On 7 January 2005 the State published the Royal Decree that approves the new regulation for the Law of Foreigners, which created a period of three months for regularisation of undocumented workers, which came into force on 7 February 2005 (see section 2.4).

Both the law reforms and social policy measures have had a great impact on the integration of migrants into the labour market. The Spanish Law of immigration establishes that all foreigners wishing to work in Spain must have

⁸ Law Reform 14/2003 to the Organic Law 4/2000, which modified the main Immigration Law 8/2003.

a work permit. This means that anyone who wishes to establish residency in Spain in order to carry out any profitable professional activity, would not only need a residence permit but also a work permit. Once migrants acquire a work permit, the law establishes that working conditions for migrants cannot be worse than those of Spanish nationals, including the right to be paid the minimum wage.

The Law, however, does not cover the principle of work security and those employing migrants are not obliged to offer any specific length of contract. These conditions, however, are more regulated by employment law than immigration law in Spain, which is explained in more detail in the next section.

2.2 Overview of current immigration legal framework

Before describing the law regarding employment and migration it is worth presenting an overview of the employment/migration equation in Spain, which has developed into the current legislative framework. In this respect, without doubt, the main point to outline is the dramatic increase in the active migrant population⁹.

In the last few years Spain has seen a dramatic growth in the building sector and currently the most active economic sectors are construction and tourism, both requiring extensive labour. Between 1995 and 2005 there were 6.4 million people in new employment in Spain, of these, 4.2 million are indigenous workers, and the remaining 2.2 million are migrants (Alonso, 2006). The increase in employment among the indigenous population has been possible because of rise in the numbers of women in the labour market: the proportion of women of working age (between 15 and 64) has risen from 33.1 per cent in 1995 to 51.2 per cent in 2005, bringing a dramatic drop in unemployment in Spain, from 22 per cent to an 8 per cent.

With regard to the legal employment framework, there are many different measures regulating the relationship employment between migrants and the labour market. These, as pointed out by Rosario Cristóbal (2006), can be classified into three main groups. First those related to access to employment,

⁹ By referring to active migrant population we do not only include those migrants working but migrants with full employment potential, mainly those between 16 and 64 years of age.

second those related to promotion of employment, and thirdly regulations and policies related to training and employment. However, these measures are rather similar for migrants and the indigenous population, as working migrants in Spain are regulated by the same Law as the indigenous population. The main difference arises before acquiring full work permits. As is shown throughout this report, it is very difficult for a migrant to acquire a full work permit, but once a permit is acquired the rights and obligations are the same for both nationals and foreigners.

Hence, in Spain, the main debate is not about the rights of migrant workers but about the right to access work permits, and about the legal framework in this regard. Migrants' access to employment is based in the following requirement: "The need to cover working positions, and with the exception of situations proved by exceptional circumstances of a stepping stone from a situation of residency for investigation or studying to a situation with a specific authorisation of residency and work, the immigrants that wish to develop a working activity should arrive from origin with a visa that specifically allows them to work or search for work"¹⁰.

As Raquel Aguilera pointed out in her recent study (2006) the objective of this legislation is to use migrant workers only for employment that nationals do not want or cannot cover. However, in practice there are many migrants that enter and remain undocumented in Spain, and work without having the legal documentation. As Aguilera also explains, the existence of a great number of migrant workers that access the labour market by non-compliant channels - mainly into the informal economy (for specific figures see section 4). This provides evidence of the failure of national policies on immigration.

2.3. Employment law framework for migrant workers

This section clarifies the legal classification of undocumented, illegal or irregular migrant workers, under Spanish legislation. There are several categories that would be considered an irregular migrant worker in Spain:

¹⁰ Exposition of motives of Regulation Decree 2393/2004, from 30th of December 2004.

- Migrant workers that are working without specific authorisation for work because they have entered Spanish territory with a transit or temporary visa and in consequence they have not completed the required administrative course in their country of origin.
- Migrant workers that have not renewed their expired residence and work permits.
- Migrant workers that have an authorisation for work in temporary employment of specific duration and once finished that employment they remain in the country working in another job.
- Migrant workers that access the territory with a visa that allows them to work and after three months, having not obtained a contract of employment, they remain in Spain.
- Migrant workers that enter Spain with a student visa and once the course is finished they remain in the Spanish territory and are contracted to work.

All migrants fitting into one of the above-mentioned categories will have to find employment in Spain within the informal, 'black' or 'underground' economy. This does of course mean that undocumented migrants perform the hardest and most insecure jobs in the labour market, and have the poorest working conditions. In addition as they do not have any contract, they often work on a temporary basis and receive the lowest incomes.

2.4. Details of registration and control processes

The control processes for documented migrants in Spain are very similar to those of other EU countries. When a migrant has the necessary documentation they can access Spain through any means; aerial, land or sea. The Home Office and specifically the immigration service are responsible for dealing with border controls. However, the most interesting cases for this study are the way undocumented migrants access the state.

Undocumented migrants arrive in Spain in several ways, as Joaquin Arango and Philip Martin (2003) clearly explain. Many Latin Americans come with tourist visas, often through other EU countries (Amsterdam was a frequently

mentioned entry point), and go into employment, while most migrants from Africa cross the 14-km wide Strait of Gibraltar in small boats called "pateras". Spanish police arrested over 18,000 migrants in pateras in 2002, up from 3,600 in 1999, and Moroccan authorities arrested an additional 15,000. Spanish police boats patrol the Strait, and estimate they catch one in four migrants attempting entry into Spain. Those caught are taken to detention centres in Spain and those who succeed usually head towards the intensive-agriculture areas of Almeria, Murcia and Huelva. Asians arrive via many routes, including via Schengen visas issued by countries such as Greece or other Schengen-member countries.

The small boats travelling between Spain and Morocco have been the focus of recent control efforts under SIVE (an integrated system of surveillance). In the Strait of Gibraltar, the Mediterranean mixes with the Atlantic, producing some of the most turbulent waters in the world, and leading to frequent sinkings of boats, that drowned an estimated 200 migrants in 2001. This has presented the Spanish Government, particularly in the last decade, with many controversial situations, particularly in relation to migrants and human rights.

As an Amnesty International report notes¹¹ many of the people who arrive at the Moroccan frontier with Ceuta - the closest Spanish city to Africa, arrive from countries where grave human rights violations have been known to take place, such as Algeria, Côte d'Ivoire, Congo, Iraq, Liberia, Democratic Republic of Congo and Sudan. Most of these people have been forced to abandon their countries because they suffer persecution and fear for their lives¹². Migrants often travel for years across the African continent and the Sahara desert and spend time in refugee camps, in many cases, where they try to save money to pay the networks of human traffickers. When they reach the Moroccan border they try to cross into Ceuta undercover hoping for an end to an extremely hard and life-threatening journey. However, difficult conditions do not end at the Spanish border.

¹¹ Amnesty International (2005) "Spain: the Southern Border" (June 2005) London.

¹² Amnesty International (2005) "Spain: the Southern Border" (June 2005) London

As the President of the *Comisión Española de Ayuda al Refugiado* (Spanish Commission for the Help of Refugees), Delia Blanco, explains¹³ once migrants arrive in Ceuta they are often forced to live in poverty on the streets due to the overcrowding of reception centres, such as the *Centro de Estancia Temporal para Inmigrantes* (CETI, temporary holding centre for immigrants). The Spanish government has persistently received formal complaints from human rights organisations in relation to allegations of police brutality against refugees who sleep on the beaches.

In addition, the humanitarian crisis in Ceuta has reached such a serious condition that after a visit of Rupert Colville, the spokesperson from the United Nations High Commissioner for Human Rights (UNHCR), to Ceuta in November 2003, a press briefing and statement was issued at the Palais des Nations in Geneva stating:

“In the small Spanish enclave in North Africa, UNHCR has expressed concerns to the Spanish authorities about the extremely poor conditions in which asylum seekers are living, and has urged the government to deploy more resources to improve the situation. Conditions fall well short of the minimum standards required by the recent EU directive on reception standards”¹⁴.

The UNHCR has also recently demanded that the government accord dignified treatment to refugees, and that it speeds up the procedures concerning asylum applications, which currently involve an average waiting time of four months (Jubany-Baucells, 2006).

This is a similar case to that faced by the Canary Islands, which is also a main gateway for Spain and Europe. In 2006 around 24,000 undocumented migrants arrived in the Canary Islands, including nearly 1,000 children, arriving mainly from West African and sub-Saharan countries such as Senegal and Mali, but some come from as far away as India, Pakistan and the Far East. The situation in the Canary Islands has also been denounced last year by human rights organisations that described the policy as a breach of the

¹³ Blanco, D. (2004)

¹⁴ UNHCR (2003)

Geneva Convention on the treatment of refugees (Amnesty International, 2006). Rescue workers estimate that some 550 people have died attempting to reach the Canary Islands in 2006.

Clearly, the technological as well as human efforts of the Spanish government seem focused on security rather than protection of migrants. In 2005, for instance, the government ordered the construction of a militarised 15-metre-high razor wire fence around the Spanish enclaves of Ceuta and Melilla in North Africa. That was the same year that the government increased radar installations and surveillance satellites along Spain's southern coast to detect and turn back anyone trying to sail across the narrow seas that separate Spain from Morocco and Algeria. These measures and the strengthened border patrols carried out by both African countries after pressure from the EU have forced migrants to set sail from Mauritania and Senegal further south. However, most experts in the field would argue that although media reports focus on the fact that the numbers of undocumented workers reaching the Canary Islands in 2006 was estimated at around 5,000, this figure is well below the tens of thousands from Africa who entered Spain in recent years through alternate routes that have gradually been sealed off by fences, border guards and coastal patrols (Mitchell and Lee, 2006).

It is also interesting to note that the latest amendment to the Foreigners Law introduced business fines of up to €60,000 for employers of undocumented migrants and established that those working without current authorisation could be deported within 48 hours. The core problem of all these measures lies in their exclusionary nature, not just the exclusion of asylum seekers and refugees, but also the exclusion of the poor.

Once undocumented migrants are in Spain and have not been detected by the police, there are two ways they can acquire documentation and become compliant with the law. The first one is a procedure that was introduced with the law LO 4/2000 (art 31) in 2001, that grants the concession of a special temporary residency and work permit, after a long period of irregular stay in Spain, when settlement can be proved (based on length of stay and family links established in the country). The second and more common way is

through the so-called regularisation processes, of which the latest in Spain took place in 2005.

2.4.1 The 2005 regularisation process

As explained earlier, a major objective of the ruling socialist party in Spain when it came into power in 2004 was to devise a "regularisation procedure" by which all undocumented migrants would be given residence permits on application, if they met the criteria. In January 2005 the State published the Royal Decree that approved the regulation for the Law of Foreigners, to be completed in a three-month period from February to May 2005. The Government explicitly claimed that the main aim of this process was a "normalisation process, for those people that are already working now and will continue to do so for at least one more year", and was clearly aimed at migrant workers.

This process of regularisation received 691,655 applications, of which over 83 per cent were resolved positively. At the beginning of March 2006 the number of regularised people was approximately 576,000. This process brought as a result, in the year 2005, a dramatic increase in the number of migrants with legal residents permits and with a social security number. The percentage of documented migrants grew by 38.5 per cent, reaching a total of 2,738,932.

However, this process did not affect all groups in the same way. For instance, those whose numbers had grown the most in recent years, namely Ecuadorians, Romanians and Bolivians, had the highest increase in regularisations, whilst those with the longest history of migration tradition, particularly Moroccans, Peruvians, Dominicans and the Chinese, had a smaller increase in the number of documented migrants. Perhaps the most important aspect of this increase was the link to the social security and employment records. In 2006 the number of non-nationals registered in employment records in Spain was 1,757,081, which represents 9.7 per cent of the total working population in Spain (the previous year's figure was 6.6 per cent).

However, this initiative by the Spanish government also had repercussions in Brussels, most of which were negative. It is worth noting the reactions from Germany and Holland whose representatives at the European Commission submitted a formal complaint to the Commission alleging that these "sort of measures" encouraged clandestine immigration. On the 11th of February 2005, the Luxembourg Presidency of the EU proposed the introduction of a new mechanism to alert all members' states about immigration flows within the EU. The Commission stated that initiatives such as the Spanish case have advantages as well as disadvantages, and stressed that these kind of measures could end up having a "calling out effect" for illegal immigration.

In reality, though, this "drastic" reform did not result in significant change in the benefits for asylum seekers and refugees in Spain. Although certainly the reform represented an improvement for working migrants, this was very much directed at those with proper contracts and not those working in the informal economy or asylum seekers and refugees. These latter groups, as ever, were not really the focus of interest at any level of Spanish debate or politics.

3. Statistical data on migration

This section presents a review of the available data on migration in relation to both documented and undocumented migrants in Spain. The data on documented migration from official statistics is collected by specific public institutions, such as the Ministry of Internal Affairs and the Ministry of Employment, with the aim of supervising "regular" migrants in Spain. The main problem of this type of database is precisely that they only include the so-called "regular" migrant population. This not only leaves out a relevant proportion of the foreign population living in Spain in "irregular" conditions, but distorts the overall image of migration in Spain. This is mainly because "regular" migrants may have some characteristics that are not shared proportionately by the entire immigrant population.

3.1 Migration data from statistical reports

There are many different sources of official data in Spain that are relevant in providing information on migration, and these are listed in this section. However, we have been selective in which data to present, bearing in mind the scope, reliability, variables available etc. Therefore the Permanent Observatory on Immigration, the Survey of the active population - the EPA, the Padrón (census) and the social security records are the sources selected for this report as they present the most useful, detailed and updated data on migration in Spain.

3.1.1 Work permits

The source of these statistics is the Ministerio de Trabajo, Dirección General de Estadística, Subdirección General de Estadísticas Sociales y Laborales. It includes data on nationality, gender, age group, type of employment (self-employed or dependent worker), sector of activity, professional category, type of work permit, province and region of work. The data included gives no indication of the informal economy and more generally of those categories of foreigners who do not need a work permit, namely non-EU citizens who enjoy the EU regime. These refer to children/spouse/parents of EU nationals or foreigners already enjoying the EU regime and those who have dual nationality.

3.1.2 Social security records

The sources of these records are the Anuario de Estadísticas Laborales and the Banco de Datos de Series Laborales, both sources from the Tesorería General de la Seguridad Social. These include data on nationality, gender, age group, province, type and group of social security regime, and economic sector of activity. Although these data include a record of all people living in Spain regardless of nationality and work permits regime, they are only based on "registrations" and not on individuals. This means that one person could appear more than once if they change their status, but it includes all people living in Spain with legal work permits, regardless of their nationality.

According to this data, by 31 December 2006 a total of 1,823,974 migrants were registered as documented workers in Spain.

3.1.3 Labour quotas

These statistics are based on the Anuario de Migraciones, whose source is the Dirección General de Ordenamiento de las Migraciones. Yearly labour quotas were introduced in 1993 as a means to regulate migratory flows – these are the total numbers of work permits that in principle can be issued to people who wish to work in Spain. This takes into account the demand for labour that is not met by the local population and migrants already in the country. Data on labour quotas are not available for 1996 and 2000, the years when the government undertook an extraordinary process of regularisation of migrants.

3.1.4 Foreign job-seekers

These statistics are compiled by the Instituto Nacional de Ocupación, Subdirección General de Servicios Técnicos, and published by the Anuario Estadístico de Extranjería. They include data on "registered" unemployment, e.g. people claiming unemployment benefits or people registered with the state employment agencies. Their nationality does not regularly appear in the publications, although it is being collected. However, since registration for unemployment benefits or with the state employment agencies is optional, this data does not provide an accurate picture of the unemployed foreign population actively looking for a job. In addition, it does not include people in

an “irregular” situation who cannot claim unemployment benefits. Hence, this data cannot be relied upon to provide a clear picture of the unemployed foreign population.

3.1.5 Census and Padrón

The census in Spain is collected by the *Subdirección General de Censos y Padrón* of the *Instituto Nacional de Estadística*. The data made available at national level is broken down by continent and most significant countries of origin, gender and age groups. However, more detailed data should be available from the municipalities, which keep the actual desegregated data. This should complement data on residency permits, since they record population living in the country regardless of residency status, although it does not always result in the satisfactory recording of the foreign population.

The data included in the Padrón Continuo is a constantly updated census. Since 1998 this census has compiled all the data of people registering with the municipal registers across the country. Currently this data is updated constantly and until the mid-1990s was published annually. Although the reliability of the data was questionable, this has improved considerably over the past few years. On the whole, the data included in both the census and the Padrón could be considered one of the most useful data sources concerning the stock of the foreign population, since it captures a large count of people who have no residency permit.

However this database has some major problems to be considered when using its data for analytical and comparative purposes:

- **Categorisation of migrant groups:** the list of groups includes students, EU migrants, temporary workers, and all are included in the category of undocumented migrants.
- **Lack of reliability:** when someone dies their name is not automatically removed from the register, similarly if someone leaves the country, unless they inform the register specifically. There is now a control for foreigners so if they do not re-register every two years, they are removed from the Padrón (see below).

- Lack of detail on individuals: this source does not tell us about education or employment status of migrants, it only provides a general picture.

In addition, a lot of undocumented migrants do not register, which is the main problem with this source for the purpose of this study. Although it is very comprehensive, in reality most migrants do not register because they are afraid of what the police may do with this information. Currently the police have no access to information in the Padrón and cannot use it to remove people from the country. However when the PP was in power they considered passing on the information to the Police, which they did in some cases. Understandably this discouraged most undocumented migrants from registering.

A reflection of the shortfall of migrants registered in the Padrón was seen in the 2005 process of regularisation. In order for migrants to receive documents they had to be registered in the Padrón for two years. This provoked a great protest from NGOs and other migrant organisations as the great majority of undocumented migrants were not registered. Eventually, due to this social pressure, the government changed the requirements and instead required a “proof of residence” (documentation demonstrating that the person had been living in Spain for at least two years such as doctors reports, etc). Once the regularisation process was closed it was seen that only 20 per cent of migrants that applied for regularisation were registered in the Padrón.

According to the census from 1st January 2006, the number of foreigners living in Spain was as follows:

Table 1. Non-nationals in Spain, 2006

Total	3,884,573
EU (25)	965,364
Other EU	626,935
Bulgaria	91,509
Rumania	370,182
Ukraine	61,802
African Countries	686,319
Morocco	487,942
Latin America	1,367,989

Argentina	175,489
Colombia	237,265
Ecuador	385,837
Peru	87,359
Dominican Republic	55,400
Asian countries	192,323
China	89,355

Source: Census at 1st January 2006

3.1.6 EPA (Enquesta Población Activa – Labour Force Survey)

The EPA is a survey updated every three months based on a sample of about 600,000 family households that it is carried out by the INE (National Statistical Institute of Spain). Its main aim is to gather information about the labour force and its diverse categories. It breaks down the information of the total foreign population by gender, age group, broad regions of origin, level of education, length of residency, economic sector of activity, occupation and professional status. It can be considered the main statistical source for analysing the composition and the dynamics of the Spanish labour market. It is conducted using a methodology similar to that used in other labour market surveys in the EU. The most important aspect for us is that EPA covers the whole Spanish population, including all people working regardless of their legal situation, regardless of whether they have a legal contract, are registered with the social security or are working in the informal economy. However, its main limitations are that it tends to underestimate the total number of non-nationals, and most notably, does not capture irregular immigrants.

According to this source, by the fourth quarter of 2006 there were 4,225,900 foreigners living in Spain. Of these, 3,809,000 were over 16 (of working age).

Table 2: Population over 16 years, 2006

	Total Population (over 16 years old)	Spanish	Foreign
Total	37.235.500	33.168.500	3.809.000
Male	18.255.000	16.221.100	1.919.900
Female	18.980.500	16.947.500	1.889.200

Source: EPA, 2006

Table 3: Active population by nationality, sex and age (thousands)

	Spanish	Foreign: Total
Male	10,898.6	1,554.0
Female	7,724.7	1,235.8
Total	18,623.3	2,789.7

Source: EPA, 2006

At the end of 2006 there were 2,461,100 non-nationals in employment, with a ratio foreign/Spanish workforce of 14.37 per cent.

Table 4: Employment by nationality, sex and sector (thousands)

	Spanish	Foreign: Total	Foreign: Rest of Europe	Foreign: South America	Foreign: Rest of the world and stateless persons
Agriculture	788.6	152.7	52.7	44.2	48.0
Industry	2,986.4	286.5	65.0	106.2	74.4
Construction	1,972.1	551.3	129.1	256.5	130.3
Services	11,383.0	1,470.5	261.9	765.8	227.1
Total	17,130.1	2,461.1	508.6	1,172.7	479.8

Source: EPA, 2006

3.1.7 Permanent Observatory on Immigration

This is part of the Government Delegation for Foreigners and Immigration.

The majority of the data they produce is gathered by two sociological research centres: the Centro de Investigaciones Sociológicas (Centre of sociological investigations - public) and the Análisis Sociológicos Económicos y Políticos (ASEP) (Sociological, Economic and Political Analysis - private). In most cases, these are surveys undertaken using a very small sample (between 400 and 1,500) of the migrant population. It includes information on the social and economic situation of migrants in Spain. This source provides data from all non-national residents in Spain. It has statistics of EU and non-EU residents and it includes several variables such as sex, age, region of residency etc. but only includes those with legal residency documents. However, does not include all legal foreigners living in Spain, missing two main groups: temporary residents (including temporary workers etc) and those that are renewing their residency papers at the time of preparation of the statistics.

The latest available data on legal migrant residents in Spain on 31 December 2006 puts the number at 3,021,808.

Table 5. Residents by nationality, 2006

Continent / Nationality	Residents 31-12-2006	
EUROPEAN UNION (25)	661,004	22%
REST OF EUROPE	367,674	12%
Bulgaria	60,174	2%
Romania	211,325	7%
Ukraine	52,760	2%
ÁFRICA	709,174	23%
Morocco	543,721	18%
LATIN AMERICA	1,064,916	35%
Argentina	86,921	3%
Colombia	225,504	7%
Ecuador	376,233	12%
Peru	90,906	3%
Dominican Republic	58,126	2%
NORTH AMERICA	18,109	1%
ASIA	197,965	7%
China	99,526	3%
OCEANÍA	1,819	0%
TOTAL	3,021,808	100%

Source: OPI December 2006

Data from the Observatory shows that the region with highest numbers of migrants in Spain is Morocco, although as a continent the highest group are from Latin America.

3.2 Estimates of undocumented migration

Following the picture provided by official statistics, we can gather the most reliable and recent (2006) number of undocumented migrants in Spain by comparing the number in the Padrón with that of documented residents. The foreign population registered in Padrón at the end of 2006 was 3.88 million and the number of residents (that is with residency permit or authorisation card) was 2.74 million, therefore the number of undocumented residents should be 1,145,641.

Table 6: Comparison of Padrón and resident data, 1 January 2007

	Registered in the Census	Residents with legal documentation	Difference
Total	3.884.573	2.738.932	1.145.641
EU (25)	965.364	569.284	396.080
Other EU countries	626.935	337.177	289.758
Bulgaria	91.509	56.329	35.180
Rumania	370.182	192.134	178.048
Ukraine	61.802	49.812	11.990
African countries	686.319	649.251	37.068
Morocco	487.942	493.114	-5.172
Latin America	1.367.989	986.178	381.811

Argentina	175.489	82.412	93.077
Colombia	237.265	204.348	32.917
Ecuador	385.837	357.065	28.772
Peru	87.359	82.533	4.826
Dominican Republic	55.400	50.765	4.635
Asian Countries	192.323	177.423	14.900
China	89.355	85.745	3.610

Source: Padrón Register 2006

However, this calculation is far from accurate, not only because of the inadequacies and unreliability of the actual numbers included in the Padrón, but also because of the many possible ways of reading or interpreting the data included.

The most significant difference in the interpretation of the number of undocumented migrants living in Spain, as based on people registered in Padrón, arises from a recent modification in rules of the Padrón, which requires the renewal every two years of data on non-EU nationals without legal documentation included, and removes the data if it is not renewed within these periods. This change came into force on the 22 December 2005. Therefore, from that date all undocumented non-EU nationals whose registration has not been renewed will be removed from the register.

Using this data, the opposition right wing party (Partido Popular – PP) claims that in the year 2005 there were 500,000 undocumented migrants registered in the Padrón removed in 2006, but that are still living in Spain. The PP argues that these people registered in the Padrón have access to Public Health Services, but once they lose such access they have no interest in reregistering, as they in fact prefer to be as invisible as possible. Hence the PP calculation of undocumented migrants in Spain, based on the Padrón, is 1,140,000 plus the 500,000 automatically removed from the Padrón in 2006, giving a total of 1,640,000 undocumented immigrants. On the other hand, the Government considers that the initial calculations of undocumented migrants based on the Padrón are in fact too high, as those in the process of renewing documents, temporary workers, EU residents and foreign students amongst others, should be excluded from the initial data. These groups add up to about 700,000 migrants, hence the Government calculation is of 1,140,000

individuals minus the 700.000, which amounts to a total of 440,000 undocumented migrants.

4. Impact and experience of undocumented migration

Given the importance of the topic of migration in Spain and the amount of literature, this section cannot present a comprehensive analysis and literature review of the current debate. However, it introduces the different approaches and trends relating to undocumented migration in Spain and presents a bibliographic overview of the studies and debate in the field.

The literature on undocumented migrants in Spain is very diverse, although in general does not refer exclusively to the undocumented, but includes the experience of this group in the wider analysis of the labour market and migration. Much of this literature and corresponding debate focuses on the diversity of trajectories of migrants in the labour market. From these works, we have selected a few texts that discuss this trajectory, starting from the analysis of the situation of irregularity in general (undocumented workers). There are some authors that focus their analysis on specific geographical areas of Spain, whilst others adopt a more general approach. Amongst the first group it is worth highlighting those that refer to the region of Almeria, which has been one of the areas with the highest percentage of irregular working migrants in Spain (Checa, 1995; Martínez Veiga, 2001). Another comprehensive study focuses on the region of Catalonia (Pajares, 2004) and a further study concentrates on Madrid (Herranz, 1996). Amongst the most relevant studies it is worth noting one that discusses the process of inclusion of migrants in the labour market (Solé and Parella, 2001), and another about the socio-demographic characteristics of the migrant population in an irregular situation (Izquierdo, 1994).

Another part of the literature in this area refers to groups of undocumented migrants according to their national origin. Amongst these we find texts that discuss the trajectory of these groups, from the perspective of their situation of irregularity. For example, an analysis by Beltrán (2000) explains the situation of the Chinese, and another explores the experience of Ecuadorian migrants (Colectivo loé, 2001). From a more general perspective, although still geographically based, there is also a study that explains the situation of Latin

American migrants in general (Herranz, 1996), and two relevant further studies on Moroccan migrants (Izquierdo, 1996; Ramírez, 1996).

A further line of analysis and publications discusses the employment sectors of undocumented migrants, for example, a general study on migrants and the catering sector (Colectivo IOÉ, 1998).

The phenomenon of undocumented migration has also been studied in Spain from the perspective of the informal economy. This stems precisely from the importance of the informal economy in Spain and the extent to which this has helped the fact that migration in Spain has widely been channelled through the irregular route. Amongst current literature, two studies that expose the situation of undocumented migrants in relation to the informal economy should be highlighted: Carrasco (1998) and Barganha and Reyneri (2001).

Finally, it is also important to mention the literature that focuses on the processes of regularisation. Spain has been a state with one of the highest number of regularisation processes in Europe and is the country that has the highest number of migrants that have gained legal status through these routes. Despite this fact, there are not very many studies that analyse this process, although amongst these, the ones to highlight are the those by Arango, Areste and Linares (Arango and Suárez, 2003; Areste, 1997; Linares, 1996) referring to the regularisation process that took place in 2000. A study of the most recent regularisation process that granted regular status to over 600,000 migrants by Pajares will appear in the 2007 edition of the Migrants State Annual Report.

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