

## **Chapter 1. THE CONTEXT OF INTERVENTIONS**

## A. DEMOGRAPHIC

### A.1) IMMIGRATION AND EMIGRATION IN HISTORICAL CONTEXT

Spain, traditionally a country of emigrants, has become a recipient country during the last decades. The reasons for this shift are due to specific circumstances, which are a consequence of the prosperity period that Spain has achieved during the last decades. Prosperity which was undreamed-of only some decades ago, when other countries were those who offered opportunities to foreign workers. Then, many sectors of the population left their houses in search of a better life away from their country of origin. During the XIX and XX century, different exodus took place in Spain. The main recipient countries were Belgium, France, Germany and the United Kingdom. One of these migrations, the one which led thousands of Spanish day-labourers to the South of France for the vintage, has lasted until recent years.

Around two million Spanish people are still living abroad, more than double of the close to one million “foreign immigrants” - residents and nationalised - living at the moment in Spain. The term “foreign immigrants” includes economic migrants, refugees and asylum-seekers. Nevertheless, it is important to highlight that in Spanish the term *foreigner* refers to residents coming from first world countries while the term *immigrant* refers to those coming from third world or developing countries, usually in precarious conditions. This study is about those who have just been defined as *immigrants*.

Before going on, it is necessary to note that the largest ethnic minority group living in Spain for many years is the Roma, a group which makes up 1.4% of the total population. The first Roma migratory mainstream dates from the beginning of the XV century, arriving to the Iberian Peninsula through the Pyrenees. Since their arrival this population has been expelled constantly and resettled, eradicating any possibility of integration (San Román, 1997). Studies on this subject are very scant.

Even though they represent the largest ethnic minority I won't refer to them in this study because they represent a different reality from that composed by the population which has arrived during the last years as a consequence of the current political and economic world situation.

### *A.1.1) European context*

During the 50's the countries of Western Europe which were devastated after WWII needed a huge amount of workers to carry out their economic reconstruction. Therefore, the migration of a mass of foreign workers, who came from southern countries such as Spain, Portugal, Italy and Turkey, was favoured. Also, those who came from the ex colonies were welcome.

Moreover, during those years the economic and political situation in Spain under Franco's dictatorship - forced exile - meant that more than 3 million Spaniards had to leave their country.

In the 60's the migratory movements and the increasing process of industrialisation altered the human geography of Spain. Apart from the process of emigration to other countries, an exodus began from rural to urban areas, a phenomenon that has lasted in different degrees until now.

Non-EU immigration in Europe kept increasing until the 1973 Oil crisis. Then the economic problems and the high rates of unemployment meant that many of the North- Western European countries started a restrictive policy before the issue of immigration. Despite this, immigration could not be stopped and this policy caused a significant change: the new immigrants became illegal and clandestine.

As a consequence of the establishment of strict controls in Northern European countries, immigrants changed their destination to Southern countries such as Spain, Portugal, Greece and Italy. These countries started to industrialise and become attractive for new immigrants. Another reason that made these countries so attractive was that they had a well-established black economy, which meant that new immigrants could find a job with little difficulty (Solé et al 2000).

It is at this time that the migration balance in Spain shifted, becoming finally an immigration country. However, this period did not last very long as the integration of these countries - Spain, Greece and Portugal - in the European Community during the 80's meant the creation of control policies for the migratory streams. In spite of this, the situation of the labour market and the important presence of the black market were still the main reasons that made these Southern countries an ideal destination.

As I mentioned above, when Spain really became a recipient country was during the 80's, and it is during the 90's that it went through a rapid growth. The fact that Spain is a popular destination is due to various reasons, concerning, among others, its geographical situation as the Southern entrance to Europe, and the specific characteristics of the Spanish labour market. According to Solé et al, the most important features of this market are the quantitative loss

of low qualified jobs in industry, the continuous decrease of jobs in agriculture, and the increase of tertiary industry<sup>1</sup>.

### A.1.2) Socio-demographic characteristics of the immigrant

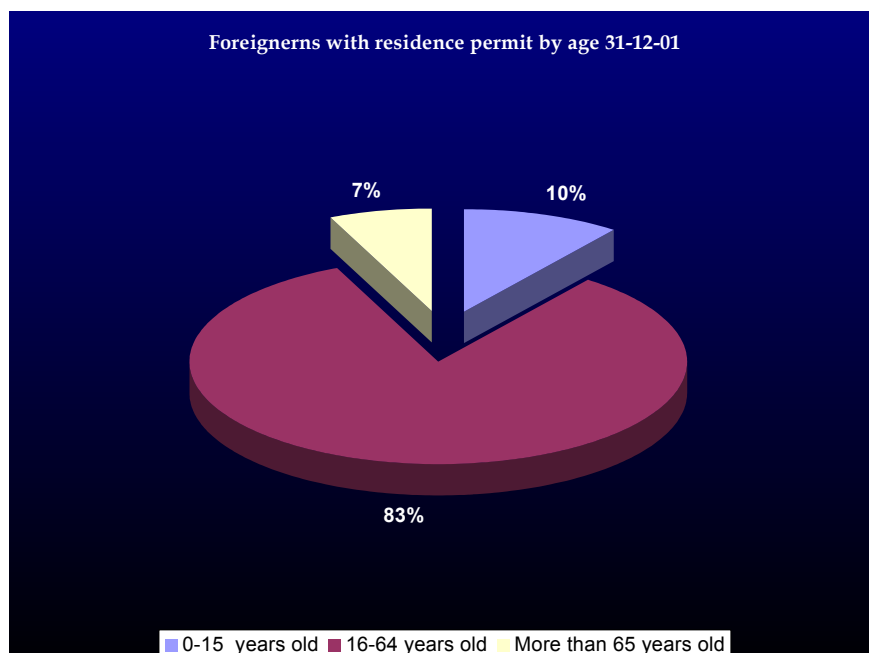
According to the figures given by the Internal Affairs Ministry the number of immigrants has increased from 198,042 in 1981 to 1,109,060 in 2001 (AEE 2001). Presently, the immigrant residence rate in Spain is 2.74% (ibid) of the total population, which represents an insignificant figure if we compare it with other European countries such as England, with 4.5%.

Even though, this figure has grown very rapid during last years. We will make a brief summary about the main characteristics of the immigration collective settled in Spain through the study of socio-demographic indicators.

#### 1. Sex and age

The Socio-demographic profile of the immigration in this country is still characteristic of the first stage in the migratory cycle. This first stage is distinguished by the high amount of “*primo-inmigrantes*”, this is, those persons who have started a migratory chain that will be continued by other immigrants – relatives, friends, etc. – in most cases. The *primo-inmigrantes* are usually young adults, frequently single or not accompanied by their partners, couples or other relatives (Arango, 2002).

Figure 1.1



Source: AEE 2001, Internal Affairs Ministry.

<sup>1</sup> Service sector has increased from 41% in 1976 to 60% in 1993.

Therefore, the most extended model of immigration is the *individual*. This means, men who come alone in search of a job or formation and who look forward to applying for family reunification once they have settled down.

The reasons to return to their countries of origin are the same as the ones that have motivated them to emigrate. These reasons are mainly economic and related to the family.

However, a new tendency has been detected lately. Traditionally it has been said that men predominated in migration, but during the last years this situation has changed. Women are becoming the first income source of their families in their countries of origin and in the reception country. The high increase in the number of immigrant women is a phenomenon that has come to be called the “*feminisation*” of the immigration (Médicos del Mundo Annual Report, 2001). Also, it has been perceived an increase of pregnant women who are coming to give birth to their children in this country because this facilitates their application for a residence permit.

As table 1.1 shows, concerning Latin American immigration, women are already the majority (57.68%). Moreover, they outnumber male immigrants in six Autonomous Communities of Spain.

**Table 1.1. Foreigners with residence permit by sex and continent of origin (%).**

Continent of origin	Women	Men
European EC Area .....	48.38	51.62
Rest of Europe .....	44.09	55.91
Africa .....	30.85	69.15
Latin America .....	57.68	42.32
North America .....	49.35	50.65
Asia .....	40.12	59.88
Oceania .....	46.90	53.10
Stateless .....	26.62	73.38
Unknown .....	25.83	74.17

Source: AEE 2001, Internal Affairs Ministry

## **2. Nationalities**

By 2001, foreign citizens with visa residence in force belonged to 185 nationalities, of which 23 represented the 83.22% of the total foreign population.

In a ranking based on countries<sup>2</sup> the most numerous group of residents came from Morocco, and by the end of 2001 there were 234,937 Moroccans regularised in our country, which signifies an increase of 17.60% with respect to the previous year. The next country in the ranking is Ecuador with 84,699 regularised, representing an increase of 174.30% with respect to 2000.

<sup>2</sup> For further information, the annexe contains tables with detailed information about countries of origin of the whole immigrant population with residence permit living in Spain and the variation percentage with respect to year 2000.

The Ecuadorians are the collective that has grown the most in recent years, but especially during the previous year. This sharp increase may be due to the recent covenant signed between the governments of Spain and Ecuador. According to this covenant, in order to promote the voluntary return of thousands of Ecuadorian “paperless” who were living in Spain, the governments promised to provide their flight back and to give them preferential treatment when applying for work and residence permits before March 1<sup>st</sup> 2001.

However, four out of the five following countries in the ranking - United Kingdom, Germany, France and Portugal - are members of the European Union. Then Colombia, with 48,710 regularised in 2001, entails an increase of 97.19% with respect to the previous year.

**Table 1.2. Foreigners with residence permit by continent of origin 31-12-01**

Continent/ Nationality	TOTAL 2001	%	% Variation 2000/2001
Africa	304,149	27.42	16.36
Asia	91,552	8.25	26.37
European Ec. Area	331,352	29.87	6.47
Latin America	283,778	25.58	53.44
North America	15,020	1.35	-
Oceania	944	0.08	4.66
Rest Europe	81,170	7.31	66.37
Stateless	466	0.04	-17.08
Unknown	6209	0.05	38.24
<b>TOTAL</b>	<b>1,109,060</b>	<b>100</b>	<b>23.82</b>

Source: AEE 2001, Internal Affairs Ministry.

Thus, in a ranking based on continents, the largest group of foreigners living in Spain come from European Union countries. This data contradicts public opinion, strongly influenced by the mass media, about the supposed invasion of immigrants coming from poor countries. According to the Anuario de Extranjería 2001 (Foreign Yearbook 2001) the total number of foreigner residents who came from European countries represented 37.19% of the total foreign resident population; this means that almost 4 foreigner residents out of 10 come from European countries.

Although we are talking mostly about an economic immigration, the colonial bonds are still a characteristic of the Spanish case. If we take as a reference the number of immigrants arriving from non-EU countries we find that six of the principal immigration groups - Morocco, Ecuador, Peru, Dominican Republic, Colombia, Cuba and Argentina - have had an historical bond with Spain. The two largest groups are Moroccans and Ecuadorians. The socio-economic problems of their countries of origin converge with the proximity of the destination: in the Moroccan case this proximity is geographical, in Ecuador's cultural.

Other nationalities with a minor presence, but representing an important relative increase are Nigeria, Pakistan, Bangladesh, Bosnia-Herzegovina, Bulgaria, Ukraine, Armenia and Bolivia.

Concerning that part of the population in an undocumented situation, its number is estimated at around 200,000 according to official data. This figure is calculated on the basis of those applications rejected during the last process of regularisation, in which around 600,000 applications were processed<sup>3</sup>. Other sources estimate about 300,000 or more, the number of undocumented immigrants living in Spain.

There exists powerful factors that generate irregularity; some of them are observed in all democratic countries but, no doubt, they are especially significant in Southern European countries due to their structure, culture, history and geography. These factors are summarised by Arango (2002) by the following:

- Clandestine entrance
- Irregular permanence/stay
- Existence of a high labour demand
- Difficulties in hiring foreign workers due to the rigidity of the labour legislation
- Bureaucracy, the slowness in the processing and renewal of residence and work permits
- Expansion of the *Black economy*
- Insufficient work inspections
- Civic culture that does not confer a high priority to legality fulfilment
- Existence of unscrupulous employers that hire undocumented workers due to the advantages that this entails.

Spain is one of the countries with the most undocumented immigrants in the European Union. The biggest section estimated are the magrebi (38% of the total) followed by the Latin-Americans (25%). Other groups in an undocumented situation with a minority presence are sub-Saharan (12%), Chinese (8%) and Eastern Europeans (8%) (Delegación de Gobierno para la Inmigración y la Extranjería).

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<sup>3</sup> Including the last regularisation process in itself and its later extension.

### 3. The clandestine entrance into Spain

In recent years, the coasts of Southern Spain and the Canary Archipelago have registered a massive arrival of small, fragile crafts which hundreds of Africans use to get into Spanish territory putting their lives in danger. Some figures can give us an idea of the magnitude of this phenomenon and the dramatic situation at present.

In 1999 a total of 475 “*pateras*” (small craft) were detected in Cádiz, Málaga, Almería, Granada, Ceuta, Melilla and Canarias. 3,569 undocumented immigrants who came ashore were arrested. This number increased to 780 “*pateras*” during 2000 and there were 14,893 detentions. This is a devastating situation as the following figures reflect:

Table 1.3. Incidents of immigrant arrivals across the Strait of Gibraltar

	1999	2000
<b>Shipwrecked</b>	30	54
<b>Missing</b>	23	47
<b>Cadaver reclaim</b>	29	55
<b>Castaways rescued</b>	387	1037

Source: Delegación del Gobierno para la Inmigración y Extranjería.

About a third of these 14,893 immigrants were women and, in many cases, came in an advanced state of pregnancy ([www.elpais.es](http://www.elpais.es)).

In 2000 the immigrants who used this way of getting into Spain were mostly from Nigeria, Ghana and Sierra Leone, whereas in 1999 they were mostly from Magreb.

It is expected that this method of entering Spain becomes less and less frequent as the Government puts into practice a new vigilance system for the coast of Andalucía and the Canary Islands. This new system, called SIVE (Integrated System for Exterior Vigilance), is a pioneer program in Europe to combat the entrance of illegal immigrants and prevent drug trafficking. The SIVE consists of radars and infrared cameras whose vision extends to 20 Kilometres. Although the system won't be working fully until 2004, in the summer 2002 the watch tower was inaugurated in the Strait of Gibraltar. (El País, 14-08-02)

Another method, apart from the “*patera*”, used to get into Spain, is by truck or van. Usually the Mafia organises the clandestine journeys in vans and trucks which allows the immigrant to arrive to the Centre and North of the country. Moreover, the police have arrested around 300 people who tried to come to Spain by hiding inside vehicles used to transport fairground attractions during the summertime in Ceuta and Melilla.

The clandestine transport network has seen its economic benefits - that previously came from contraband and drug traffic - multiplied with this practice. This practice usually goes along with the illegal falsification of documents.

But apart from the small boats, trucks and vans, the most common way to enter the country is by plane - for those who have their documents in order for a three month stay, which can later be extended - or by bus, crossing the Pyrenees thanks to the advantages of the Schengen Pass.

The Comisaría General de Extranjería y Documentación ( Foreign Office), together with the Police of the EU after RIO operation, outlines the following as the principal routes of entrance of immigrants into Spain, according to their origin. Whilst the Sub-Saharanians would use a combination of all three ways - plane, shipment or transport by land - the Magrebí (eg. Moroccans) would be the principal customer of the "*patera*"; Latin-Americans and Asians use mostly the plane and, finally, Eastern Europeans come in vans or trucks (El País, 15-04-02).

#### **4. Geographical distribution of the immigrant population in Spain<sup>4</sup>**

The immigrant population in Spain is not spread in a homogeneous form. It is concentrated mainly in the following areas: Madrid, Barcelona, the Mediterranean coast and both archipelagos, the Canary Islands and the Balearics. Interior areas of Spain - apart from Madrid - together with the Cantabrian Coast hardly signify 15% of the total immigrant resident population of the country.

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<sup>4</sup> Statistical information collected from AEE 2000 and AEE 2001.



Finally, in Madrid and Barcelona, the provinces which have the highest concentration of immigrant residents in Spain: The percentage of immigrant residents in Madrid is 20.86% of the population and has seen an increase of 2.58% with respect to the previous year 1999. On the other hand, immigrant residents make up 16.80% of the population in Barcelona which has seen an increase of 16.53% over the past year. It is important to point out the importance of the density of the immigrant population in Barcelona, taking into account that Barcelona has less than half the inhabitants of Madrid.

The composition of the immigrants on the basis of their country of origin is very different in both provinces. In the case of Madrid the largest groups are: Americans (43.18%), Europeans (27.14%), Africans (19.64%) and Asians (9.78%). In Barcelona the largest are: Africans (35.59%), Americans (27.54%), Europeans (20.59%) and Asians (16.07%). The distinct composition of both cities may be due to various factors concerning administration and language among others. Madrid has a capacity for attraction due its administration centrality. Language also may be one of the factors that brings a greater number of Latin Americans to Madrid, as in Barcelona the Catalan<sup>5</sup> may be perceived as an obstacle for integration.

### **5. Labour situation of immigrants**

The analysis of the labour trajectories of the non-EU immigrants points to a labour market strongly segmented, which places them at the lowest stratum of this structure and makes them victims of a strong discrimination. This is reflected both in access to employment as well as in their work conditions (Solé et al, 2000).

There are four principal areas of activity in which the immigrant population finds employment. These are agriculture, construction, catering, and domestic service. This labour market is characterised by instability, low wages, poor status and lack of regularisation. Immigrant workers have little choice because keeping their job is fundamental for the renewal of their residence permit.

The number of immigrants affiliated to the Social Security system increased by 44% for EC immigrants and 96% for non-EC between 1998 and 2000. According to the IMSERSO, the number of foreign workers incorporated in the Social Security system before 11 January 2002 was 3.99% of the total working population. According to nationality, Morocco, Ecuador, United Kingdom, Germany, Colombia and France were the countries with the highest number of workers incorporated in the Social Security system at the beginning of the year.

On the other hand, undocumented immigrants presented a different distribution to the four activity areas. Besides working in the areas mentioned above, it is estimated that around 27% worked in itinerant commerce (street

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<sup>5</sup> Official language together with Spanish in Catalonia.

selling), and around 19% obtained money from drug trafficking and delinquency. Also close to 20,000 made a living from prostitution.

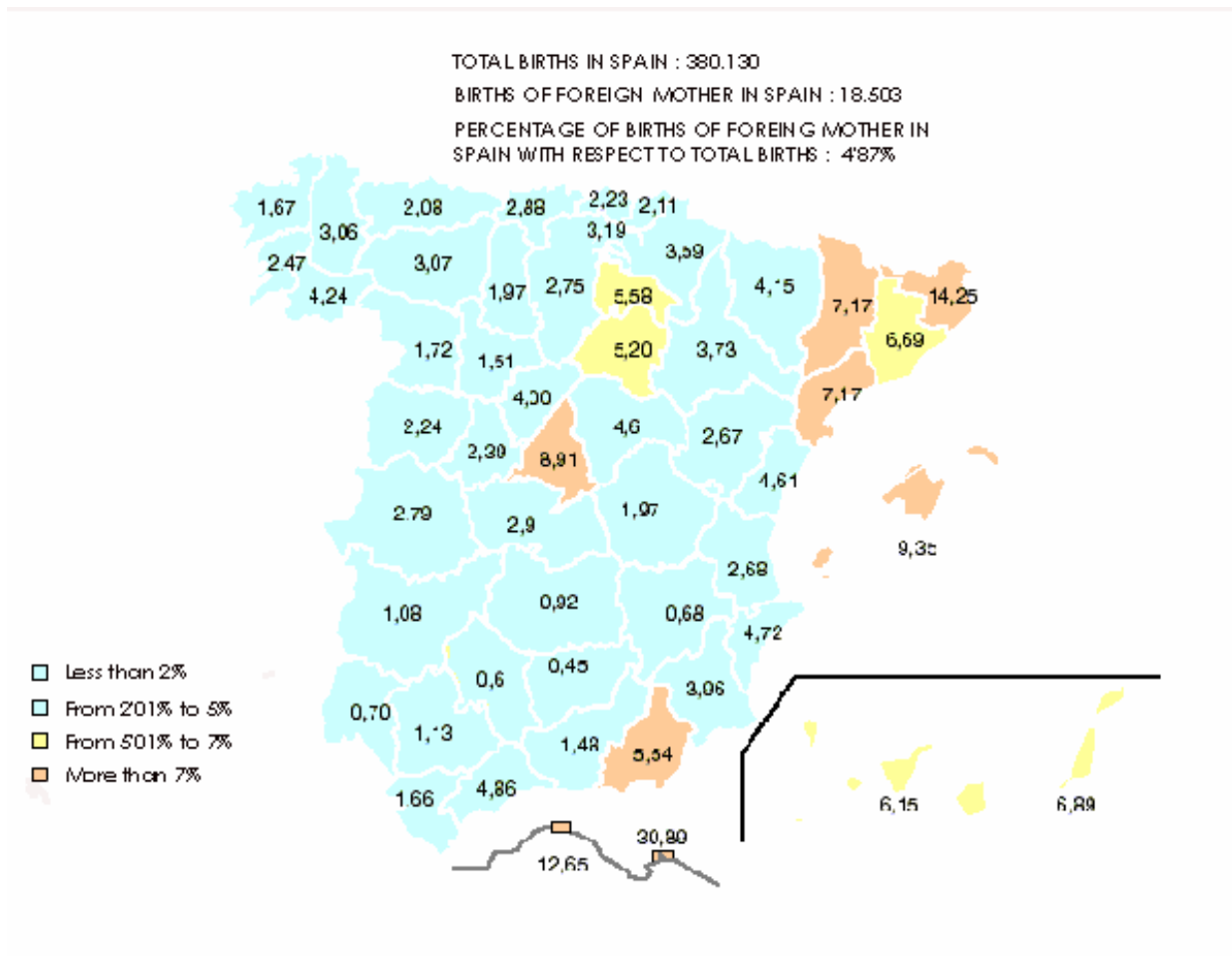
With regard to Spain, the immigrant women who exercise prostitution come mostly from Central and Latin America, Sub-Saharan Africa, Eastern Europe and Southeast Asia.

## **6. Demographic impact of the immigrant population on Spanish society**

The incorporation of the immigrant population has helped to stem an ageing population, which Spain like other European countries suffers at present. According to the UN, Spain has one of the lowest birth-rates in the world, and has had an annual population growth rate of 0.09% between 1995 and 2000. In the short term, Spain would need an immigrant labour force to be able to keep the balance between the active population and the retired. Surveys carried out by the UN, World Bank and the National Statistical Institute (INE) raised the necessity of 4 million workers in 2020, which means an annual contingent of 240,000 to 300,000 immigrants in order to stop the demographic fall (CEAR White Book on labour insertion of Refugees and Immigrants, 2000).

The impact of immigration on those regions where immigrants have settled has caused the birth-rate curve to soar up compared with other regions which are still losing population. According to INE, 18,503 immigrant births (4.87%) balanced the demographic balance in 1999. To illustrate this point, the last Spanish Fertility survey carried out by the INE revealed that: 47% of Spanish women do not have any children while 42% of Central America women have 2 children, and more than 30% of African women have 3 or more. As a consequence, the birth rate of immigrants has helped Spain to avoid entering into a period of “negative growth”. However, nine Spanish regions have still presented these negative birth rates.

These births may presume a high cost in the short term concerning education and health care but in the medium and long term they will have very positive consequences for all. For example, these births will balance the demography, will supply the employment demand in a rising economy and will contribute in a decisive way to the maintenance of the pension system. (El País digital, 2002).

Figure 1.3. Percentage of births of foreign mother with respect to total births 2001

Source: AEE 2001, Internal Affairs Ministry (Home Office).

## A.2) ASYLUM-SEEKERS AND REFUGEES: TRENDS SINCE 1970: ORIGINS AND NUMBERS

After the refugee exodus from Central European countries during World War II until 1978, Spain has been receiving refugees in a spontaneous way, coming first from communist countries such as the former USSR, Vietnam and Cuba, then from Latin American countries principally Chile, Uruguay and Argentina. Even some "Nazis" came fleeing from Germany (FISI<sup>6</sup>-INSERSO, 1997). They received social and economic assistance directly from ACNUR, Cáritas and the Red Cross and some economic support from the Government. During this period the number of refugees was very small and the first steps for their social protection started to be given.

<sup>6</sup> Foro para la Integración Social de los Inmigrantes (Forum for the social integration of immigrants)

Spain became first a country of asylum and later an immigration country. Nevertheless, there is an important lack of exact statistical data from this time and the information available is not trustworthy.

According to re-settlement history, the first quota of refugees who arrived in Spain, since the establishment of a democratic government, took place in December of 1979. As a consequence of ACNUR's petition, Spain received 1000 refugees from Vietnam and Laos. After one year, and as a consequence of the problems which arose, these cases were remitted to the Red Cross who had to deal with their problems of integration and adaptation which had been caused by a lack of experience in the handling of non-Latin American refugees (ACNUR, 2002).

In the following years, Spain accepted, most of the time with ACNUR's involvement, refugees from Cuba, Iran, Vietnam, Iraq, Bosnia, Ex-Yugoslavia, Albania and Afghanistan.

Most refugees re-settled obtained their Refugee Status, except in the case of the Iraqis in 1992 where only 25 out of 75 obtained it and the Bosnians in 1992-94, where 700 out of 1000 of the refugees did. The ex-Yugoslavians, who came in 1992, obtained a Temporary Protection Status and the Albanians in 1999 a different Status as displaced.

Reasons for the problems which have arisen during the different re-settlements that have taken place in Spain since 1978 (ibid, 2002):

- Lack of experience on behalf of the assistance personnel
- Consequences of the long stays of refugees in concentration camps
- False expectations / Lack of information on behalf of the refugees
- Lack of interest on behalf of the refugees who came to Spain because they had no other choice.
- Inadequate means of assistance due to the high number of refugees, and particularly, for trauma victims
- Overprotection (suffered in particular by the Bosnians)
- Important differences in relation to the level of welcome received and consequent integration in Spain in comparison with other countries.
- Co-ordination difficulties between Government Institutions and NGOs.
- Conflicts arising between people of different ethnic groups (as in the case of Serbs, Croats and Muslims) who were lodged in the same reception centres.
- Lack of translators specialised in refugees.

However, the Spanish NGO has been improving in the last years its ability to provide adequate assistance to the refugee population arriving to this country. They have specialised in working with this group (see Chapters 2 & 3).

According to ACNUR, Spain has attended positively to the urgent demands for re-settlement until 1999. Nevertheless, at the past Refugee World Day there was a demonstration by CEAR in which they criticised the fact that Spain had only accepted 17 refugees over the last three years. Although Spain does not have any specific legal regulation about re-settlement, the Asylum Law foresees the possibility of authorising the urgent move to Spain of those refugees whose life is thought to be at risk in the first asylum country (Art. 4.2. de la Aplicación del Real Decreto a la Ley de Asilo) .

Therefore, until the mid 90's Spain was basically a "springboard" where citizens from Iran, Iraq and Eastern European countries such as Poland or Rumania, stayed while their cases were being processed for their definitive re-settlement in other countries such as the United States, Canada, Australia and above all, Sweden. But this tendency has decreased considerably during the past decade. Looking at the data collected with regard to the number of asylum applicants from 1984 until 2000, it has to be said that trustful statistical data concerning asylum seekers and refugees in Spain is only available from 1988, and especially, from 1992 when the Ministry for Asylum Seekers and Refugees (OAR) was established.

**Table 1.4. Number of applicants, included their relatives, from 1984 to 2001**

Period	Number of applicants	Period	Number of applicants
1984	1,100	1993	12,615
1985	2,300	1994	11,992
1986	2,300	1995	5,678
1987	2,500	1996	4,730
1988	4,516	1997	4,975
1989	4,077	1998	6,764
1990	8,647	1999	8,405
1991	8,138	2000	7,926
1992	11,708	2001	9,490
		<b>TOTAL</b>	<b>117,861</b>

Source: Data 83-91 from the Comisaría General de Documentación (C.G.D.)

Data 91-00, from Anuario Estadístico de Extranjería (Internal Affairs Ministry)

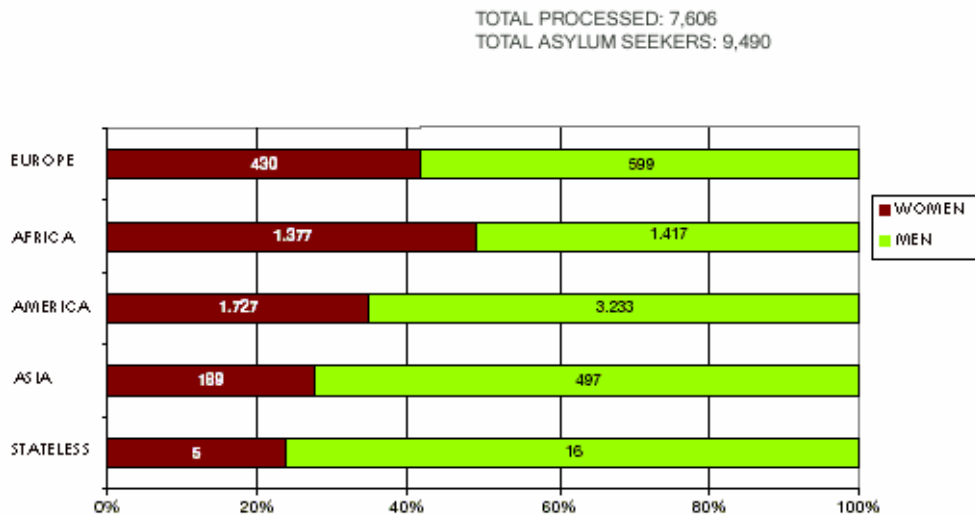
According to the Comisaría General de Documentación (Foreign Office), the distribution of these applicants by nationalities, placed Iranians and Iraqis as the majority until 1987. Then the Europeans took over from them, the biggest groups being from Poland and Rumania.

By 1992, Latin Americans were in first place, especially Peruvians, Dominicans and Cubans, while the Africans came third with the greatest proportion from Senegal, Angola and Liberia.

In 2001, Spain had 7,606 asylum applications affecting 9,490 persons. The number of asylum-seekers in 2001 increased 19.73% with respect to 2000.

According to continent of origin, most asylum-seekers in 2001 are American (52.27%), followed by Africans (29.44%), Europeans (10.84%) and Asian (7.23%). Those coming from Oceania and stateless persons make up 0.22% of the total.

**Figure 1.4. Asylum-seekers by continent of origin and sex 2001**



Source: Data obtained from AEE 2001, Internal Affairs Ministry. ( Home Office)

In relation to gender, one should highlight that the number of men applying for asylum almost doubles that of women in the case of Latin America, and almost triples in the case of Asians.

While the Rumanians and Algerians were the two nationalities submitting the highest number of asylum applications previously, by 2000 and 2001 Colombians and Cubans were on top. Especially in 2001, the Colombians and Cubans represented more than half of the total of asylum-seekers (51.66%)<sup>7</sup>.

By Autonomous Communities, Madrid has the highest number of applicants (73.30%). This could be explained by its closeness to central administration and the belief that the application process could take less time. Far behind Madrid are the Communities of Valencia (5.97%) and Catalonia (5.49%).

<sup>7</sup> For further information about the composition of asylum-seekers by nationalities over the last five years see Annexe.

**Table 1.5. Number of asylum-seekers in 2001 by Autonomous communities**

Autonomous communities	Number of asylum-seekers	Percentage
Andalucía	381	4.01
Aragón	43	0.45
Asturias	9	0.09
Baleares	33	0.35
Canarias	243	2.56
Cantabria	92	0.97
Castilla - La Mancha	2	0.02
Castilla y León	35	0.37
Cataluña	521	5.49
Comunidad Valenciana	567	5.97
Extremadura	8	0.08
Galicia	60	0.63
Madrid	6,956	73.30
Murcia	15	0.16
Navarra	18	0.19
País Vasco	125	1.32
La Rioja	32	0.34
Ceuta	182	1.92
Melilla	36	0.38
Applications at embassies	132	1.39
<b>TOTAL</b>	<b>9,490</b>	<b>100.00</b>

Source: AEE 2001, Internal Affairs Ministry.( Home Office)

According to the place the application was submitted:

**Table 1.6. Asylum-seekers by place of submitting the asylum application (%)**

National territory	Border post (puesto fronterizo)	Embassies	TOTAL
61.94	36.67	1.39	100.00

Source: AEE 2001, Internal Affairs Ministry.

And finally, in relation with the average acceptance of applications, UNHCR has grouped the data in intervals of five years:

**Table 1.7. Refugees: Average acceptance from 1982 to 2001**

Period	Applications submitted (Generally excludes repeat/reopened cases)	Recognition under the 1951 UN Convention (First instance decisions)	Asylum-seekers granted humanitarian status (First instance decisions)	Total granted refugee and humanitarian status (Convention humanitarian status in first instance and appeal/review)	Total granted refugee and humanitarian status (Convention humanitarian status in first instance and appeal/review) (%)
1982-1986	9,690	1,630	-	1,630	16.87
1987-1991	27,860	2,380	-	2,380	8.54
1992-1996	46,720	2,890	400	3,290	7.04
1997-2001	37,450	1,350	2,160	3,510	9.37

Note. These statistics do not include persons granted protection outside the individual asylum procedure (e.g. refugees granted temporary protection on a group basis), persons admitted under family reunification procedures or resettled refugees.

Source: [www.unhcr.ch](http://www.unhcr.ch)

It is a fact that asking for asylum in Spain is becoming harder every time. According to Boletín Estadístico de Extranjería ( Foreign Statistical Bulletin), a half-yearly inventory for internal use in the Internal Affairs Ministry (Home Office), 3,748 asylum claims have been submitted during the first six months of 2002. Of these, only 243 were admitted, this means, only the 6.5% (El País, 19-09-02).

## **B. POLITICAL**

### **B.1) MIGRATION POLICIES IN SPAIN**

Spain is a parliamentary monarchy. The 1978 Constitution followed a long period of dictatorship. Since then, the country has undergone a deep transformation of government, political structure and legal framework.

The 1978 Constitution bestows to the State the exclusive right to regulate the migratory flow, the concession of asylum to refugees, and of residence permits and nationality. Moreover, it creates the framework that guarantees the fundamental rights of immigrants.

The valid immigrant norm previous to 1985 was constituted by a wide collection of Laws-Decrees and lacked cohesion. Also, there were established some unique specifications within the laws which applied to foreigners of certain nationalities, and resulted from a compensation policy to benefit Spanish emigrants in former colonies, bearing in mind the historical responsibilities and the special bond that they wanted to maintain with the Hispanic Community (Forum for the Social Integration of Immigrants -INSERSO, 1997).

The 1985 Aliens Act on the Rights and Freedom of Foreigners arises as a response to the European petitions, which wanted Spain to prevent the possible avalanche of immigration that would signify this country becoming the port of entrance to Europe (Badosa & Subirats, 2002). At that time the immigration rate in Spain was 0.6% of the total population, and the immigration phenomenon was still not perceived among citizens.

The Aliens Act on the Rights and Freedoms of Foreigners became law in July 1985. Its principal characteristics were formed by a restrictive vision on fundamental rights and a strict visa policy for work, meaning that a previous offer of employment was necessary. The purpose of this was to obstruct the concession and renovation of work permits by a criteria based on the national employment situation (ibid, 2002).

The consequence was the establishment of a permanent undocumented population pocket, a situation that came out to be untenable. This is why the Government had to accomplish a regularisation process that took place in 1991, and moreover, started to develop a contingent<sup>8</sup> policy to regulate the entrance of new immigrant workers. The purpose was to cover all those labour posts which were not covered by the indigenous population.

According Badosa and Subirats, the situation provoked a circular/"no way out" chain that will continue throughout the immigration policy evolution of this country: regularisation, irregularisation and regularisation of immigrants. This is because the establishment of restrictive practices facilitates the fall into illegality meaning that an extraordinary regularisation process would be needed. However, after a while the same problem starts again.

As the perception of the phenomenon increased due to the volume of the immigrant population<sup>9</sup>, it became necessary to construct government policy to facilitate the social integration process of the new immigrants. The legal framework in force by that time was clearly insufficient for this purpose, and in 1996 a new Regulation was put into effect as a result of the negotiation between the Socialist Government<sup>10</sup> and the social sectors implicated in the management of the migratory phenomenon.

The new 1996 Regulation tried to facilitate the legal stability of those immigrants in a regular situation. Some of its major contributions were:

- legal establishment of "quotas" ,
- determination of different working permits,
- creation of the figure of the permanent resident,
- recognition of certain rights such as equality, education and legal assistance,
- protection of children´s rights and
- introduction of the family reunification permit.

To sum up, this new Regulation was mainly positive and created a benchmark for later legal modifications.

In 1998 a process was begun to reform the 1985 Alien Law. This process was characterised by the fact that it didn't emerge from a government proposal but from three legal proposals presented by minority groups - Izquierda Unida (IU), Convergencia i Unió (CiU) and Grupo Mixto (a coalition of minority political parties) .

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<sup>8</sup> Acceptance of contingent groups of immigrants as a way to regulate the migratory flows through the establishment of quotas depending on the number of jobs available which cannot be covered by any indigenous or resident foreigners.

<sup>9</sup> The immigration rate in 1996 was 1.2% of the total population. Double the 1985 rate.

<sup>10</sup> Last term of office of the Socialist party.

The process ended with the new Alien Act on the Rights and Freedom of Foreigners 4/2000 that was approved in July 2000. The Government announced that if they won the next elections, the reform of the recently approved law would be among its priorities. Indeed, they did win the elections and the recently approved law did not even last a year.

The positive aspect of the 4/2000 law was the desire to face up to the problem and to integrate the documented and undocumented population. For those regularised, the law facilitated family reunification and also the attainment of a permanent residence permit without it being necessary to prove 5 years of continuous residence in the country, instead just two years. It also permitted those foreigners who had a permanent residence permit to vote in elections. For those who were in an irregular situation, it offered a new way of automatic regularisation after two years of being registered in the census on condition of having sufficient means to subsist, and also it reduced the punishment for being undocumented<sup>11</sup>. The law universalised the right to health assistance, education and free legal assistance, extending these rights to undocumented immigrants.

However, after the Popular Party won the elections, and this time with an absolute majority. The Government started the announced reform of the 4/2000 law. The permanent increase in the number of immigrants entering Spain and the events which occurred in El Ejido<sup>12</sup> in that same year - events that had an international repercussion - were some of the reasons for the Government's urgency to introduce some changes.

The reform carried out pointed to aspects concerning the sanctions/penalties and infraction system (reintroducing the expulsion for undocumented immigrants), the fight against illegal trafficking of immigrants, and the regulation of migratory flows. However, the Government's migration policy was based on certain hypotheses that have been demonstrated false. These hypotheses concerned the existence of an impervious border, so that its policy actions focused on expulsion of illegal immigrants, establishment of quotas and bilateral agreements/treaties.

That aspect of the reform which has been most criticised by NGOs and other organisations working with immigrants, is the criminalisation of the undocumented immigrant, because it deprives them of their collective rights and does not resolve the situation of those whose expulsion order is still waiting to be processed. One of consequences of the new law 8/2000 was, therefore, the marginalisation of the undocumented immigrant who can not be effectively expelled. A situation that has become a serious problem in the Spanish case, with around 90.000 applications rejected in 2000. The access to certain social services, such as housing support or Higher education, which were guaranteed under the

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<sup>11</sup> A fee would substitute the expulsion.

<sup>12</sup> For further information see pp 38-39.

former law for any immigrant independently of their administrative situation, is now limited to those who have the residence permit.

However, the reduced integration possibilities not only affect the undocumented. Immigrants in a regular situation have now more obstacles to obtain the permanent residence permit, to apply for family reunification, and restricted rights concerning public/political participation. The permanent residence permit is obtained after a five year residence, and if at any point during those years the immigrant becomes undocumented (for example if he/she loses his/her job) he/she begins again from zero. The right for family reunification limits the number of members of the family to regroup, reintroduces the condition of presenting the previous requirements<sup>13</sup> and does not incorporate the “administrative silence” as positive in the resolution. Finally, the new law eliminates the necessity of the establishment of democratic mechanisms to incorporate immigrants in the decision making process of local government, restricting their participation only to those issues which affect them directly (8/2000 Art 6.2). The right to vote was restricted to foreigners with residence permits but only in local government elections (8/2000 Art 6.1).

But the Execution Regulation of the new law softens some aspects and introduced the temporary residence permit to those who can prove a continuous residence of 3 years along with an accredited situation of rooting. To prove this root though, it is necessary to be incorporated in the labour market or to have family among foreigner or Spanish residents. Nevertheless, this situation of rooting has been suppressed during the elaboration of this report in 2002.

However, the lack of co-ordination between the competent entities and even between the different departments of each administration was practically absolute (Badosa and Subirats, 2002). The complex distribution of jurisdictions related to immigration has meant an added problem when putting into practice the political measures for immigrant integration (Informe España 2001). The following table shows the range of agents taking part in issues of immigration.

**Table 1.8. Agents involved in Migration policy**

	<b>Conception</b>	<b>Decision</b>	<b>Execution</b>
<b>Chamber of Deputies</b>	X	X	
<b>Central Government</b>	X	X	
<b>Social workers, civil servants, police...</b>			X
<b>Governments, Autonomous Communities</b>	X	X	
<b>Local organisations</b>	X	X	X
<b>NGOs</b>	X		X
<b>Immigrant associations</b>	X		X

Source: Fundación Encuentro, CECS. (Informe España 2001)

<sup>13</sup> Immigrants must prove residence for one year, provision of means and equivalent housing.

These problems were tackled through the creation of the State Delegate for Migration<sup>14</sup>, together with different mechanisms of co-ordination established in the 2000 Law.

The Spanish case has recently focused its efforts on a policy which controls the migratory channels. Its basic characteristic has been the centralisation of immigration policy in the Internal Affairs Ministry. The legislative and organisational reforms reaffirm this vision since the latest reforms were those made by the former Internal Affairs Minister instead of the minister for Labour and Social Affairs.

For example, organisations such as “The Forum for the Social Integration of Immigrants” ( Foro), and the Permanent Immigration Observatory (OPI), which offers updated information about immigration and asylum, have passed from the Labour and Social Affairs to the Internal Affairs Ministry

These two organisations – Foro and OPI - were set up as an initiative coming from the 1994 Interministerial Plan for Immigrant Integration. The Plan’s aim was to act as a reference for Administration, to help Autonomous Communities and local Administration, and, finally, as a channel to facilitate the active participation of civil societies in the integration of the immigrant population. Nevertheless, this Plan, still in force, stands out for its inequality between its objectives and fields of action stated in its contents and the resources provided for its development. While the legal field has been certainly improved, hardly any new administrative and human resources have been created, and even less economic resources (Informe España 2001).

Finally, the last action, which reflects centralisation, is the GRECO<sup>15</sup> program, the Global Regulation and Co-ordination Program for Immigration. It is directed by the Internal Affairs Ministry and represents the first Spanish initiative to tackle the immigration problem from all perspectives.

This program strengthens the police vision of the migration phenomenon because the Internal Affairs Ministry monopolises the participation in most of the programs designed, even in those concerning Integration and Protection whose competence corresponds theoretically by nature to the Labour and Social Affairs Ministry. The following table presents the distribution by Ministries of the program’s measures planned for the period 2002-2004.

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<sup>14</sup> RD 1449/2000 July 28<sup>th</sup> (28/07/00 BOE)

<sup>15</sup> Available at [www.mir.es](http://www.mir.es)

Table 1.9. GRECO. Principal agents in Control vs Assistance

MINISTRIES	GRECO TOTAL	CONTROL/REGULATION			ASSISTENCE		
		DESIGN AND COORDINATION	Regulation channels	Subtotal	INTEGRATION	REFUGEE PROTECTION	Subtotal
Internal Affairs	41	8	14	22	11	8	19
Labour and Social Affairs	20	7	4	11	7	2	9
External Affairs	7	3	3	6	1	0	1
Justice	3	0	1	1	2	0	2
Health and Consumption	3	0	2	2	1	0	1
Education, Culture and Sports	2	0	0	0	2	0	2
Public Administration	1	0	1	1	0	0	0
Autonomous Communities	5	1	2	3	2	0	2

Source: Badosa & Subirats, 2002.

One of the aspects contemplated in the GRECO program is the regulation regarding collaboration and bilateral agreements, in order to regulate the massive arrival of immigrants through the signature of covenants with their countries of origin. Labour necessities in our country are analysed to calculate the shortage of national, EC citizens and non-EC citizens with working residence permits, in order to cover the labour posts offered (GRECO, 2000). In actual fact, covenants of different modalities have been signed during 2001 with Colombia, Equator, Morocco and Dominican Republic, and during 2002 with Romania and Poland. Nevertheless, some of them have not been put into practice yet, like the covenant with Morocco, which due to a diplomatic conflict has been delayed for over a year<sup>16</sup>. Polish and Rumanians have been the most fortunate because of their preferential option to be contracted in the 2002 contingents.

In general terms, the agreements try to establish, among other things, readily available information about work, travel and accommodation for immigrant workers and their rights and labour conditions during their stay (ibid, 2000).

However, this collection of good intentions has come up against several difficulties from the beginning. The contingent only focuses on the individual labour aspect, placing under contract/hiring workers instead of people. Also, the agreements are signed with countries that suffer significant deficiencies in their Administration and, moreover, it will not stop the attempts of getting into the country with a tourist visa (Trinidad, M. L., 2002). In fact, the reality confirms that these measures have not reduced the massive and clandestine entrance of undocumented immigrants. On the contrary, it has increased. The great amount of news appearing in *El País* newspaper during 2001 confirms that, since the new law was approved in January 2001, the number of illegal immigrants who have tried to enter the country has increased compared with the previous year.

In conclusion, the positive aspect of this centralisation is the possible co-ordination between the different entities, although it seems not to have become

<sup>16</sup> The Moroccan Ambassador has returned to his post in Spain at the beginning of February 2003.

reality. On the other hand, there are two important negative aspects coming from this situation: first, it simplifies the issue to the point of reducing it to a police matter, and secondly, as a consequence of this, it deprives the autonomous and local governments from playing a more active role if the perspective was based more on social policies.

However, the Government made public in June 2002 their intention of reforming the current Immigration law again. According to the former Minister of Labour and Social Affairs<sup>17</sup>, Juan Carlos Aparicio, the present law is not giving the expected results. Aparicio explained that the next reform should be based on the establishment of contingents and the hiring of immigrants from their countries of origin.

The insistence for controlling migratory flows through the establishment of contingents clashes with the failure that this mechanism has shown so far. The contingent approved by the Ministry Council in December 2001 offered 10,884 steady jobs for immigrant workers. Out of this total 2,243 were assigned to domestic service and only 27 were allocated. From the 8,641 posts remaining, Spain could only offer 353 jobs (El País 10-6-02). The Government ascribes these negative results to various factors such as: an increase in the labour force due to the resolution of the different processes of regularisation, the novelty of the system itself, the delay in the setting up of the offices to attend to employers (denied by Ecuador) and the lack of adequate managerial habits in the process. Non statutory bodies criticise that this failure is due to the lack in the Government's operative capacity for contingents and the lack of will in implementing the policies.

The reform that the Government is considering would mean the end of any possibility to regularise the situation of those immigrants who are in the country and don't have documents. The Executive has already implemented the denial of the documentation for rooting, independent of the time that the applicant is in the country. Also, it is trying to restrict drastically the right concerning family reunification, and to prohibit any extraordinary regularisation process (El País, 06-06.02).

If the Executive carries on with the reform announced before December 31<sup>st</sup> 2002, it would mean a change to the Law concerning immigration within three years. This continuous cycle of policy re-making gives an idea of the extreme importance of the issue in the political agenda at present.

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<sup>17</sup> In July 2002 the Spanish President, Jose María Aznar, changed 8 of the Ministries. Eduardo Zaplana is now in charge of the Labour and Social Affairs Minister.

## B.2) ASYLUM POLICIES IN SPAIN

Since there was no legislation specifically for asylum before 1979, the majority of refugees (and immigrants) who were in Spain by that time had recourse to Law 118/1969, that offered privileged treatment concerning work permits to those who came from Latin America and the Spanish ex colonies. The former normative, which was abolished with the new law of asylum in 1984, presumed this regime to be more beneficial to them than asylum. Even though, some of them were really refugees in the sense that were victims of persecution for political reasons in their countries of origin (FISI-INSERSO, 1997).

At the end of the transition process, in 1978, Spain accepted the Geneva Convention of 1951 and became a member of EXCOM<sup>18</sup> (Comité Ejecutivo del Alto Comisionado) in 1994. In December of that same year 1978, the Spanish Constitution was approved and article 13.4 made reference to the right of seeking asylum in Spain.

In 1979 the first Ministerial Order on the subject of asylum was approved. By that time, asylum was a constitutional and international law, but still needed its legal development.

From 1978 until the late 80's, asylum seekers were getting economic and social assistance basically from the Red Cross, while recognised refugees did from the Spanish Refugee Aid Commission (CEAR). While Red Cross worked on the basis of a monthly monetary subsidy and a social-psychological orientation service, CEAR worked with little projects concerning the promotion of self-employment and grants (ACNUR, 2002).

During 1982, the Labour and Social Security Ministry<sup>19</sup> started to assume officially a political commitment to give support to refugee and asylum-seeker programs. One year later, in 1983, the Social Service for Refugees, Asylum seekers and Displaced (SERAD) was created, dependent on the mentioned Ministry. It was about the first specific service for refugees, for which it was considered part of the National budget to be assigned to refugee and asylum-seeker's support programs that would be mostly managed by NGOs (ACNUR, 2002; FISI-INSERSO, 1997).

It was in June 1984 that the first Asylum<sup>20</sup>Law was put into effect. Taking into account the "asylum crises" in Europe this new and first asylum law presents very positive aspects giving more rights to asylum-seekers. Also, it was positive the fact that those persons whose asylum applications were rejected were not forced to leave the country but received instead a temporary residence permit, and were allowed to apply for regularisation according to the Immigration laws.

<sup>18</sup> High Commission Executive Committee.

<sup>19</sup> Nowadays Labour and Social Affairs Ministry.

<sup>20</sup> Approved in March 1984.

Among the negative aspects of this Law, two of them have special importance. Firstly, the establishment of two different statuses, one for asylum seekers and one for refugees. Secondly, the fact that it does not establish a clear line about the social protection of refugees and asylum seekers (FISI-INSERSO, 1997).

The asylum was a “concession freely given by a sovereign state”, this means, that a person who does not fulfil the Geneva Convention’s requirements but whom the state conceded an equal protection to that of a refugee for reasons such as public interest or others. Its recognition had a constitutive value, while the refugee’s recognition had a declarative character according to 1951 Geneva Convention (ibid).

This statutory dualism led to ambiguity and delays. The main difference between both categories is that persecution suffered by an asylum-seeker had basically a legal/juridical nature.

Nowadays, after the modification of the 1984 Law, the asylum seeker doesn’t differ to the refugee. At present, the term asylum refers to the protection that Spain offers to those who have been recognised as having refugee status according to 1951 Geneva Convention<sup>21</sup>.

In 1987 IMSERSO, the Institute of Migration and Social Care under the Labour and Social Security Ministry, was created and it began to take part in issues of asylum seekers and refugees. The first task assigned was to develop and manage a Reception Centre Network with Social Integration programs. In 1989, IMSERSO created the first “Reception Centres” for refugees and asylum-seekers (CAR). There exists four CAR in Spain: two in Madrid, one in Valencia and one in Seville, altogether offering a total of 396 places. The CAR are public establishments, managed directly by IMSERSO, and whose function is to provide temporary lodging, maintenance and psycho-social, urgent and primary care assistance. The main goal of these reception centres is to facilitate the social, cultural and labour insertion of this population (IMSERSO Journal N°10, 2000).

Usually these centres were fully occupied until around two or three months ago, when the restrictions to enter the country were hardened and less and less applications from asylum-seekers were admitted. The decline of asylum applications has intensified since March 2002 due to the requirement of a transit visa for Cubans and an entrance visa for Colombians. According to CEAR<sup>22</sup>, these measures have meant the suppression of these nationalities access to Spanish borders. The rapid decline of asylum-seekers during recent months has been noticed in CAR Vallecas, located in Madrid, where one of its workers (unnamed

<sup>21</sup> “...owing to a well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing such fear, is unwilling to avail himself of the protection of that country...”. United Nations 1951. Convention relating to the Status of Refugees.

<sup>22</sup> Manifesto of CEAR for World Refugee Day 2002.

for reasons of privacy) confirmed that only the 70% of the places were taken in July 2002.

At that time, different NGOs began to concentrate their efforts in carrying out Reception programs and tried to collect money from the IMSERSO to open more of these centres. Nowadays, the IMSERSO finances 420 places, which are being managed by various NGOs, and are located all over the country, mainly along the East Coast and central plain.

From 1988, and, above all, in 1992 with the creation of the Office of Asylum and Refugees (OAR), trustworthy and fundamental data concerning asylum seekers and refugees became available. If we have a look at table 1.4, we can appreciate the marked decline in the number of asylum-seekers from 1995. While there were 12,615 asylum-seekers in 1993 and 11,992 in 1994, these figures decrease to 5,678 in 1995. This fall is explained by the new 1994 Asylum Law.

As was stated in the Forum for the Social Integration of Immigrants (1997) the 1984 Asylum Law was modified 10 years later mainly because of the necessity for:

- The adoption of measures to restrain the abusive utilisation of asylum by “economic migrants”
- An accelerated procedure for inadmissible or “manifestly unfounded” asylum claims to avoid the collapse of the applications procedure and,
- The general situation in Europe, with the worsening economic crisis and unemployment, the deterioration of the situation in Third World Countries, and the beginning of the former Yugoslavian conflict. For these reasons, Europe asked for a harmonising of the Asylum policies of all member States.

The most important changes of the new 1994 Asylum Law were: unification of the double status of asylum and refugee in the Refugee Status, the creation of a new humanitarian statute that grants temporary protection, the establishment of an accelerated procedure for admission, and the reinforcement of certain procedure guarantees<sup>23</sup>. Moreover, applicants who had been rejected would be forced to leave the country within a limited space of time.

The 1951 Geneva Convention lack of relevance to the actual world situation, where the reasons to escape are no longer limited to ideological reasons but to others such as corruption, inter-ethnic conflicts, etc, have obliged the governments to include these cases in their asylum law.

The Spanish law mentions these cases in its 17.2 article where it contemplates a special asylum for humanitarian or public interest reasons. It is applicable for

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<sup>23</sup> Reinforcement of:

- Legal and interpreter assistance
- Information and orientation services
- ACNUR special intervention
- Possibility of submitting reports by NGO specialised in this field

displaced, vulnerable persons, and public interest cases. The State offers a temporary protection based on the *non refoulment* principle, and must be renewed annually.

There is to say that the *displaced* are shown as a separate entity, having a special mention in the Asylum Regulation<sup>24</sup>. It refers to those persons who have had to leave their country as a consequence of political, ethnic or religious conflicts and do not fulfil the requirements to acquire Refugee Status. Thus, a specific legal cover is created which includes their right to the same assistance as asylum seekers and refugees. They are conceded temporary residence permits, due to exceptional circumstances, and a work authorisation without taking into account national employment situation. This Status is given mostly to Colombians (ACCEM, 2002). In practise, it has the same legal consequences as the Humanitarian Status.

Nevertheless, the consequences, when all this theory has been put into practise, have been - according to the Forum for the Social Integration of Immigrants (1997) - the following:

- In addition to Convention refugee status, Spain may extend temporary protected status to displaced persons that have fled their country of origin as a result of political, religious, or ethnic conflict. Recipients of temporary protection status receive yearly residence permits for the duration of the conflict in the country of origin. They are entitled to the same social benefits as recognised refugees. However, the article 17.2 of the Law that regulates the Humanitarian Status has an unfixed nature because there are no common norms of application. The interested party is subjected to different administrative practices and, sometimes, these are contradictory.
- The accelerated procedure for admission - established in order to eliminate those applications manifestly unfounded or abusive - is being applied with an excessive frequency. Certainly, it has existed an abuse in the application for asylum on behalf of the "economic migrants", so that the implementation of this new procedure should be beneficial for refugees and displaced people. The Administration is now the one who's carrying out an excessive application of inadmissibility without respecting the established guarantees. This practice is bringing about the rejection of some refugees and displaced.
- It also exists a tendency to treat in a generic way the applications that come from a specific country. There should be stricter control to accomplish an individual and personal examination of each application according to the Geneva Convention.

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<sup>24</sup> Disposición adicional primera.

- Another issue to highlight with regard to guarantees is the re-examination at the border. Considered as the maximum guarantee of the procedure, in the practise what is really decisive is the first interview and allegations. In the first moment, most persons lack minimum information and are afraid because they are surrounded by policemen and administrative personnel. The second time, they are better informed and are more confident, but this re-examination has been devalued.

The effects of the Reform could not be noticed until 1995, with the sharp fall of asylum claims. This Law represented a deep legal change in the history of asylum in Spain.

Also, since October 1996 asylum-seekers may apply for asylum at two Spanish cities in North Africa, Ceuta and Melilla. The decision by the government is a consequence of a history of violent protests by asylum-seekers who were previously treated as clandestine immigrants and detained in the two cities.

In the same year, 1996, the Co-ordination Board between the IMSERSO and NGOs was set up. This Board has analysed and proposed new services to support immigrant groups.

Amnesty International have collected and analysed the restrictions that Spain imposes on those who flee from human rights violations, in its report "*Asylum in Spain: an obstacle course*" 2001. AI has detected serious barriers in accessing a fair asylum process. Some of the barriers identified are: visa impositions on citizens coming from countries where there exists a systematic violation of human rights and where it is very difficult to get a visa<sup>25</sup>, possibility of fining transport companies which bring undocumented persons to Spain, and the establishment of documentation controls before leaving the plane

IA points out the absence of European and Spanish normative frames, and the existence of practices that could be obstructing access for many people claiming asylum. The sharp fall of asylum applications during recent years could be explained by those restrictions (AI, 2001).

## **B.3) CURRENT ADMISSION PROCEDURES**

### **B.3.1) *Immigrants***

The regularisation process is governed by 4/2000 Immigration Law, which was modified, as explained before, by the 8/2000 law. There are two different application regimes: Community Regime and General Regime.

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<sup>25</sup> During the year 2002 new measures that restrain and prevent the access for claiming asylum to Colombian and Cuban citizens have been approved.

*Community Regime* is that applied to members of European Union countries and is much more favourable to the applicant than the General Regime.

According to the *General Regime*, someone who comes to Spain, from a non-European Union country, in search of an improvement of his/her well-being and standard of living, mainly due to economic reasons, will be able to get a temporary residence permit on the basis of the following suppositions:

- 1) By contingents, this is, if the immigrant is not in Spain and (s)he has a job offer that can not be occupied by any indigenous person.
- 2) According to family reunification requirement
- 3) By extraordinary processes of regularisation<sup>26</sup>
- 4) By "*arraigo*", this is, by proving a rooting situation. There are two possibilities to prove this situation:
  - a) Proving **three years** living in Spain **if** the immigrant has a job offer and children or Spanish parents, or if the children and parents have residence permit in this country.
  - b) Proving **five years** living in Spain **if** the immigrant has just a job offer

When an undocumented immigrant marries a Spanish citizen, (s)he must prove at least one year of living together, whether before or after the marriage, in order to have the right to apply for a residence permit as a relative.

However, for an undocumented foreigner to get a legal job it is an arduous process, if not an impossible task. Immigrants without residence permits will be able to obtain one (apart from their regularisation derived from the contingent of 30,000 annual permits in Spain) with a pre-contract from a Spanish company; provided if the immigrant returns to his/her country of origin to get the residence and work visa in the Spanish consulate of that country. (S)he must take a risk, because everyone knows that the employer will not wait for unqualified labour (CEAR, 2002).

There exists two types of residence permit: temporary and permanent. Supposing that the foreigner fulfils the requirements mentioned above, (s)he will be able to get a temporary residence permit that lasts for one year. After this year, if (s)he still fulfils the requirements, the permit will be renewed for two years and then for two more. After five years of continuous legal residence the immigrant will obtain a permanent residence permit. To apply for nationality, ten years of continuous legal residence in the country is required for everyone except those who have refugee status, who require five years, and those coming from Latin American countries who need just two years.

<sup>26</sup> Extraordinary process of regularisation will be prohibited as a way of obtaining documents, if the Government approves the law reform planned for the beginning of 2003.

The applicant must go to the Immigration Office or the Police Station in the town where (s)he plans to reside. The residence permit application will be formalised when the application sheet has been filled out and is presented together with the required documentation. The application form is only available in Spanish but Immigration offices have interpreters<sup>27</sup> to give support. The specific documentation required in order to apply for a residence permit for the first time is the following:

- Valid residence visa
- Criminal record certificate
- Official medical certificate
- Except in outstanding circumstances, the applicant needs to prove sufficient means for living.
- In the case of applying for family reunification, the applicant must provide evidence of family bonds.

If a foreigner plans to prolong their stay in Spain, (s)he must renew the documents a month before their expiration.

### **B.3.2) *Asylum-seekers***

The Asylum procedure is governed by the Refugee Law 5/1984, modified by the 9/1994 Law and 1995 Real Decree. Asylum-seekers can submit applications to the Ministry of Interior's Office for Asylum and Refugees (OAR), immigration offices, police stations at the border or within the territory, and at Spanish diplomatic and consular missions abroad. The process is divided into three stages:

#### **First stage: Presentation of the asylum application.**

When applying, asylum-seekers must submit evidence of their identity and a "credible statement" asserting persecution along with the application form, passport or travel permit photocopy. If the solicitor is not contributing any type of personal documentation he will have to justify its omission.

The applicant receives a receipt for his/her application that needs to be accompanied by their passport. This receipt provides the authorisation for provisional residence in the country with a maximum allowed of 60 days.

As a measure of protection, if the solicitor lacks the documentation demanded to reside in Spain, the Ministry of Internal Affairs is able to permit residence to the interested party up to the definitive resolution of the process.

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<sup>27</sup> Languages usually available are English, French and Arabic, but at some offices they also have interpreters for other languages.

The Office for Asylum and Refugees (OAR) reviews all asylum applications submitted to the regular determination procedure. UNHCR submits an opinion on the admissibility of each claim to OAR.

As was mentioned above, Spain's 1994 asylum amendments introduced an accelerated procedure for inadmissible or "manifestly unfounded" asylum claims. Cases may be inadmissible if the person has sought or could have sought protection in a third country, if the applicant bases the claim on manifestly false or outdated information, or if the application is a mere reiteration of an earlier case denied by the Spanish authorities. The effects is the expulsion of the applicant from Spanish territory.

Spain began implementing the Dublin Convention on 1st September 1997, a European Union (EU) agreement that designates the country responsible for adjudicating asylum claims.

According to the UN High Commissioner for Refugees (UNHCR), the "safe third country" concept is not usually applied in itself, but is accompanied by other reasons when declaring an application inadmissible.

### **Second stage: Admission to process**

It is at this stage that the figure of the asylum-seeker is created. If in the course of four days, the interested party has not been notified of non-admission, it will imply the admission of his/her request and the consequent authorisation of entry into Spanish territory. If, on the other hand, the application has been rejected, the interested party can ask for re-examination of his case within 24 hours after the resolution's notification.

Non-admission means, in most cases, the expulsion from the country within 15 days. The person becomes immediately illegal. If the non-admission takes place at the border, entrance into the country is denied, except when the requirements to stay in Spain according to the Immigration Laws are fulfilled.

Admission signifies the following:

- 1) Authorisation to stay in the country during the time of the procedure.
- 2) Depending on means and personal situation, the provision of accommodation.
- 3) The asylum-seeker who lacks economical means, (s)he will benefit from social services, education and health, provided by local government or through NGOs, according to the budget available.
- 4) The time limit for the procedure is six months. After this time, if no decision has been reached, it is understood that the application has been rejected. But, if in six months the case has still not been resolved, the applicant can ask for a special authorisation to work. This authorisation differs from the regular

work permit in the fact that this authorisation enables the asylum seeker to work only in the labour post that (s)he has been offered previously. This means, to apply for this authorisation, it is compulsory to have a job offer.

Immediately before writing the resolution proposal, the interested party is invited to an audience and they are given ten days to present documents and evidence that they consider appropriate.

### **Third stage: Final decision**

OAR forwards all admissible applications to the Inter-ministerial Commission for Asylum and Refugee Status (CIAR), which includes representatives from the ministries of foreign affairs, internal affairs, labour and social affairs, and justice. Once Spain admits an asylum application to the regular determination process, UNHCR attends meetings of CIAR in an advisory capacity.

CIAR issues a decision, usually within four months, based on the information provided in the OAR file and the opinions provided by UNHCR and various non-governmental organisations. After evaluation, CIAR issues its proposed decision to the Ministry of Interior. If the ministry concurs with the CIAR decision, it becomes final.

OAR issues an identity document to accepted applicants, making them eligible for residency, work, and social benefits. But there are some restrictions like exceptions for family reunification. For example, when the marriage has been formed after the recognition of the Refugee Status, the reunification will be denied.

Denied asylum-seekers will be able to stay in Spain if they fulfil the requirements according to the 2000 Aliens Act on the Rights and Freedom of Foreigners, or they have an authorisation for humanitarian reasons or public interest. The granting of this sort of Status is dependent on the immigration authorities instead of the asylum ones since August 2001.

The applicant may appeal against decisions to the National Audience, which is a national court, within two months of notification. Appeals do not immediately suspend expulsion orders although asylum-seekers can request a suspension, which is usually granted.

For the granting of nationality by residence it is required ten years of proven residence, but five years is sufficient for those who have obtained asylum or refugee status.

## B.4) RECEPTION AND ACCOMMODATION

When arriving in Spain, the asylum-seeker must firstly go to the Asylum and Refugee Office (OAR), an organism which is under jurisdiction of the Internal Affairs Ministry. This organism is based in Madrid but it has seats over the country, usually at the Delegación del Gobierno (government's mission). The asylum seeker could go to other entities, such as Red Cross, to get advice.

If the application is accepted, the asylum-seeker is authorised to stay in the country during the time of the procedure. In the case that they lack economical means they are offered accommodation.

Each case is analysed on a global and individual basis, taking into account the different characteristics the application presents with respect to its composition, whether it consists of family units or individual cases.

The accommodation program provided is for stays lasting six months which can be extend up to a maximum of six more months in those family cases which present a vulnerable situation, and a maximum of three more months for individual cases.

The OAR, Red Cross, CEAR and ACCEM are the main bodies that propose which cases demand accommodation after having submitted their asylum application. Depending upon the social reality of each applicant and the vacancies at that moment, they decide which is the most suitable reception centre. OAR takes the final decision.

At a national level, the asylum-seekers accommodation service is under jurisdiction of:

### Governmental organisations

- 1- IMSERSO (Migration and Social Services Institute governed by the Ministry for Labour and Social Affairs): have four Refugee Reception centres (CAR) in different locations. Two of them are in Madrid, one is in Valencia and the other in Seville. Altogether they offer 396 vacancies.

### Non-governmental organisations:

- 2- Spanish Red Cross.
- 3- Spanish Commission for Refugee Aid (CEAR).
- 4- Spanish Catholic Migration Commission (ACCEM): offering 148 vacancies in different flats, centres and residences in the following locations: Girona, Gijón, León, Madrid, Seville and Sigüenza.

The IMSERSO finances all places up to a total of 816, 396 being managed directly by the IMSERSO and the other 420, managed by the NGOs mentioned above.

The Psycho-social intervention in a CAR focuses on facilitating the living together and the integration of the refugee into Spanish society. However, these goals have to contend with the inevitable process of institutionalisation inside these centres. For example, in CAR Vallecas, the fact that a staff of 30 workers take care of 100 residents, persons who have had sufficient ability to flee their countries despite the obstacles, is a clear indicator of the overprotective character of the centre. *“Real integration of residents would be much easier and better if the institution was more self-managed and self-responsible”* (CAR Vallecas Annual Report, 2000: 87).

In cases of emergency, when reception centres are full or other special cases, Cáritas and the Red Cross provide emergency accommodation mostly in the form of vouchers for hostels. Red Cross has just started to create new places to give accommodation for those asylum seekers whose application is still waiting to be admitted or rejected to process. Other NGO - CEAR and ACCEM - will continue in this line.

Also, accommodation is provided by religious centres. Moreover the CASI in Madrid has recently established 145 vacancies for emergency accommodation for immigrants.

## **B.5) RIGHTS AND RESTRICTIONS APPLYING TO ASYLUM SEEKERS**

- (S)he can't be expelled from the country, according to article 33 of the 1951 Geneva Convention, until the application's resolution, which usually lasts from 6 months to over a year.
- (S)he can benefit from free legal assistance through the asylum claim process, applying for a lawyer at the National Law School or going to one of the NGOs that provide legal assistance for asylum-seekers (CEAR, ACCEM and COMRADE among others)
- (S)he will be attended by an interpreter if (s)he does not speak Spanish. This interpreter will be provided usually by ACCEM in the OAR and at Madrid-Barajas airport, and by COMRADE outside of the OAR.
- (S)he will get medical assistance if necessary and orientation about existing social services for refugees. This assistance is usually delivered by the Red Cross and the Social Work Unit at the OAR.
- In the case that they lack economic means, asylum-seekers will benefit from social services, education and health assistance delivered directly by public administration or through a NGO, according to available funds.

- Asylum-seekers are eligible to work if after six months of their claim's submission their case has not yet been resolved. To obtain this **special authorisation to work** it is indispensable to have a previous job offer. Unlike the immigrant, the job doesn't have to be limited by the national labour situation<sup>28</sup>. The work permit will expire when the residence permit does, and both can be renewed at the same time.

## B.6) PUBLIC ATTITUDES TOWARDS IMMIGRANTS IN GENERAL AND REFUGEES IN PARTICULAR.

Before 1985, there existed in Spain a deep institutional and social indifference towards immigrants in general. The figure of the immigrant had still not been socially constructed. There only existed the figure of the "foreigner", which had a positive connotation, referring to a population which came mostly from rich countries (Solé et al 2000).

With the 1985 Aliens Act on the Rights and Freedom of Foreigners, new juridical categories were created. These categories soon became symbolic categories that made the figure of the "immigrant" appear, referring to a population coming from Third World countries. Finally, institutional factors were those that made the figure of the immigrant visible in the public eye (ibid, 2000). By the term "immigrant", Spaniards refer to "economic migrants", refugees and asylum-seekers. Refugees and asylum-seekers are not perceived as a different immigrant group.

If we compare the attitude of the Spanish towards immigrants with that of other European countries, we can verify that Spain is, after Portugal, the country with most tolerant attitude towards immigration, having a very low Xenophobia index. The Xenophobia index has been constructed on the basis of questions that measure the level of agreement and disagreement with respect to five sentences<sup>29</sup> describing attitudes towards immigrants.

Comparing the arithmetic average of the xenophobia index<sup>30</sup> it is observed that, although maintaining always a very low level (less than 3, in a 0-14 scale), it decreased progressively until reaching its lowest point (1.9) in 1998. However since then, it increased to 2.0 in 1999 and 2.3 in 2000. The most xenophobic attitudes exist among the older and more conservative segments of the population, and also the ones with the lowest socio-economic status. These sectors

<sup>28</sup> Asylum-seekers can hold a job without any limitation, this means, independent to the national employment situation unlike those who have to resort to Immigration laws.

<sup>29</sup> A) Foreign workers should only be admitted under the condition that there are no Spanish workers to cover those jobs.

B) The economic situation of Spain is already too difficult to have to invest part of the National budget in helping immigrants.

C) We would be annoyed if our children had classmates from other races at school

D) Immigration will cause Spain to lose its identity.

E) Citizens of any country should have the right to settle down in any other country, without any type of limitation.

<sup>30</sup> Data from 1991 to 1995 produced by CIRES

Data from 1996 to 2000 produced by ASEP (Social, Economic and Political Analyses) and own by IMSERSO.

see immigrants as direct competitors in the labour market and also have more possibilities of having them as neighbours (ibid, 2000).

The slight increase seen in the xenophobia index during 1999 and 2000 coincides with a blurred political climate along with an increase in racial violence, racist threats and crimes, some of which were committed by neo-Nazi organisations (EUMC Annual Report, 2000) which have caused a strong impact on public opinion. According to EUMC Annual Report 2000, the official statistics on racial crimes are challenged by human rights organisations in some Member States. In Spain, the NGOs recorded about four times as many racist attacks as the police authorities.

Among other events that took place during 1999 and 2000 some need to be pointed out :

- ❑ the polemic created concerning the 4/2000 Law,
- ❑ the electoral campaign - whose manifesto included the immediate reform of the recently approved Law -,
- ❑ the Regularisation plan to fight illegal immigration,
- ❑ the constant news coverage regarding the arrival of illegal immigrants at the coasts, and
- ❑ the events in El Ejido

The riot in the village of El Ejido (Almería) in 2000 had an international repercussion and was one of the most serious events of racist violence that year. On February 5<sup>th</sup> 2000 the murder of a Spanish woman by a Moroccan man - who was proved afterwards to have a mental illness<sup>31</sup> - in the streets of El Ejido caused a unique racist uprising that lasted for three days. During that time different hordes armed with baseball bats, sticks and iron bars, plundered immigrants' trades, burned their houses and mosques, blocked highways and overturned cars with their occupants inside. This episode was known as the *caza del moro* ( the hunt of the Moor). Some days before, there had been another murder of a local by one of his Moroccan employees.

El Ejido is a little town located in the Southwest of Almería, with nearly 54,000 inhabitants, and an immigrant population, mostly Moroccan, of 12,000 inhabitants (22.2%) during the busiest times (Martínez, 2001). The town lives mainly from agriculture. Immigration has been very profitable for the town economy, in the form of a cheap labour force.

Many of them work the land, most of them inside hothouses that can reach 45° during the day while they are using insecticides<sup>32</sup>. The salaries they receive are

<sup>31</sup> SOS Racismo Annual Report 2001.

<sup>32</sup> A study of the death rate carried out in West Almería concerning agricultural day labourers, showed a high incidence of diseases related to the contact with pesticides (migraines, depressions, allergies) and an increase in intoxication rates. The study also suggested a possible relation between contact with pesticides and the increase in abortion and suicides rates (Ugalde, 1997)

under the minimum wage established by Law regarding country labourers (La voz de Almería, 10-02-00)<sup>33</sup> and, according to the Report of the Ombudsman of Andalucía during the period of the incident, between 60 and 80% of immigrants didn't live in proper housing (El País, 06-02-00).

One sentence pronounced by Juan Enciso, the Mayor of El Ejido, days after this episode, sums up what the popular point of view was. He said: *"At eight o'clock in the morning there are too few immigrants, but at eight o'clock at night there are too many"*<sup>34</sup> (SOS Racism Annual Report, 2001)

In official surveys carried out during the 90's we can see a shift in the opinion towards immigrants among the Spanish population. The year 1994 shows a shift, because it verified for the first time that about two thirds of Spanish people considered the number of foreign residents to be too many. The proportion of those who thought the number of foreign residents was "too many" increased from 12% in 1991 to 40% in 2000. This widespread opinion seems to be directly connected with age, right-wing ideology, and inversely connected with social position (Díez & Ramírez, 2001).

The monthly barometers<sup>35</sup> of the State Central Survey Bureau (CIS), show that immigration has passed from the 8<sup>th</sup> place in November 2000 to 3<sup>rd</sup> place in July 2002 in a list of issues which the population perceives as national problems. The 3<sup>rd</sup> place reached in June and July 2002 barometers came after unemployment, terrorism or citizen safety. One should mention that it is only in the year 2000 when questions about regular immigration were included for the first time in the monthly barometers.

Independent to the objective increase in the number of this population during the last ten years, it also seems that the Spanish have become suddenly more aware of their presence. Until 1999, the immigration phenomenon was not among the principle problems of the Spanish population, but from that date on, political controversy and the mass media have converted it into one of the main problems concerning public opinion. Moreover, the mass media have played an important role in the direct association between immigration and delinquency. Already in 1995, a study carried out by SOS Racismo<sup>36</sup> about the image of immigrants in the press concluded that a third of the articles published in the press concerning immigrants, related this group to criminal activities.

The assumed relation between illegal immigration and delinquency, an issue which is being used by the Government as a justification for their policy making, is not so clear as is often supposed. Some figures from the Ministry of Internal Affairs show that the percentage of immigrants who were apprehended during last January was 30.6%, of which only half were undocumented (El País, 23-05-02).

<sup>33</sup> Almería's local newspaper

<sup>34</sup> Quotations have been translated by the author.

<sup>35</sup> Available at [www.cis.es](http://www.cis.es)

<sup>36</sup> SOS Racismo, "El racismo en el Estado español" (Racism in Spain, 1995 Report)

In Spain there exists very few studies concerning the role of the media in the formation of public opinion about immigration. Nevertheless, even at an international level there aren't many studies based on systematic analyses of content and comparative investigations.

Among the studies in Spain, one which deserves a special mention is the continuous research carried out by the NGO CIPIE (Centre for investigation and Promotion. Latin America and Europe) during 1992-1994 and 1995-2000. During this second period, their work was published by the Immigration Permanent Observatory, an organisation that depended on the Labour and Social Affairs Ministry until 2000. With the new law, the OPI has passed to be under the management of the Internal Affairs Ministry and these publications have been cancelled. Their research covered radio, television and the Press.

Their last study on the Press, looked at the period of July, August and September of 2000. The objective was, as usual, to follow up news of immigration, racism and xenophobia in ten Spanish newspapers (national and regional). The total number of news items studied was 2,348. This total has been divided into 3 different groups, depending on the way the news affected the public image of immigrants and immigration in general. The results were the following:

**Table 1.10. Press news selected during July, August and September 2000.**

	<b>Number of news</b>	<b>% of total</b>
Positive news	317	13.50
Negative news	1,470	62.60
Neutral news	561	23.89
<b>Total selected news</b>	<b>2,348</b>	<b>100.00</b>

Source: CIPIE Foundation journal.

*Negative news* is that which associated immigrants with exclusion and violence, being the immigrant either the agent or the victim. Also that which makes use of pejorative, confused and inadequate terms in its redaction, and could lead the reader to identify immigration with problems or criminal activities.

*Positive news* is that which shows a favourable position to immigrant integration.

*Neutral news* is that which cannot be considered either positive or negative because of the neutrality of its content or the ambiguity of its possible classification.

As we see in table 10, the percentage of neutral news is much higher than that of positive news. This could be explained by the clear presence of ambivalence in the media discourse.

The number of news items collected by CIPIE for the different studies during these years, shows the sharp increase in the appearance of this type of news in the Press since mid-1999. It reaffirms the idea supported by EUMC that the racist discourse is increasingly becoming implicit rather than explicit (EUMC Annual Report, 2000).

There is a scarcity or absence of minority voices compared to those from public institutions in the media. This fact contributes to the creation of an impression that migrants are passive or victims (EUMC Annual Report, 2000). The Spanish population does not receive objective information about the quantity and character of immigrants that reside in Spain. The replacement of this information by that propagated by the media leads to the formation of stereotypes (Pajares, 1998).

As Pajares explains *“the result is the emergence of a psychology of invasion through which immigration phenomenon is perceived as something enormous due to the continuity and multiplicity of news referring to the immigrants. The propaganda of the invasion can be found in the justification of the recent restrictive policies. These policies keep the immigrant population in a situation of inferior rights which permits more exploitation, using, at the same time, the immigrants as a scapegoat for the current problems of society, such as unemployment and delinquency”*<sup>37</sup> (Pajares, 1998: 235).

Apart from the symbolic aspects that surround the social construction of the immigrant image and the institutional ones, the material conditions are essential to understand the impact of immigration on the recipient society. The fact that immigrants get the most precarious and socially devaluated jobs and live in deprived areas, with precarious housing conditions<sup>38</sup>, provokes their rejection by the rest of society. Rejection is based on the logic of exclusion and social marginalisation.

The immigrants groups which are most rejected are Arabs, Muslims and black Africans. However, despite being nationals, the Roma, are the most rejected. The Roma, with a population of around 400,000, is an ethnic minority which has lived in our country for 500 years. According to a survey carried out by CIRES<sup>39</sup> in 1995, Arabs, Muslims and Roma were situated in the very last places in a ranking. Tolerance towards immigrants seems to increase when they are closer to “white race”, “western culture” and “Christian religion” (Solé et al 2000).

In relation to the younger sector of the population, a survey carried out by the Youth Institute in 2000<sup>40</sup> among 6,492 Spanish young people aged between 15 to 29 showed a third of the respondents considered the immigration phenomenon as detrimental for the future of the country. Also 24% thought that there would be negative effects on morality and Spanish costumes.

<sup>37</sup> Quotations have been translated by the autor.

<sup>38</sup> The conditions and treatment of immigrants and Roma in the labour market and housing are considered inhumane by human rights organisations reporting on Spain, among other countries (EUMC Annual Report, 2000).

<sup>39</sup> Centro de Investigación de la Realidad Social.

<sup>40</sup> Survey for the 2000 Spanish Youth Report. Youth Institute, Labour and Social Affairs Ministry.

There doesn't exist any study about attitudes concerning refugees in Spain. The reason may be due to a cultural idiosyncrasy. The Spanish population perceives all "foreign immigrants" as economic migrants, that is, settled minority ethnic groups, and does not distinguish this category from that of refugees. Information and education about refugees in Spain and their particular situation is very scarce. Some educational initiatives to raise awareness are being carried out by ACNUR by means of TV advertisements.

The demand for asylum in Spain does not mean a significant increase in the number of foreigners as happens in many other countries in Europe. As Professor Arango says, "the number of refugees who settle in Spain -less than 7.000- makes up an infinitesimal fraction of the total foreign population". This is one feature that Spain shares with other Southern European countries, giving place to what has been called the "Southern immigration model". The reduced number of asylum applications may be due to the very low proportion of favourable resolutions and the unattractiveness of the regime. Moreover, the lack of relevance that asylum has could be explained by the fact that in comparative terms, to enter, stay and work illegally is increasingly easier in Southern European countries (Baldwin-Eduards, 2002 op.cit Arango, 2002). The 1990 Dublin agreement that obliges asylum-seekers to present their application in only one country and the fact that Spain has not stood out for burden sharing are some of the factors influencing this downward trend.

### C. NEEDS AND PROBLEMS OF IMMIGRANTS, ASYLUM-SEEKERS AND REFUGEES

Among all the changes a human being must face throughout his life, few are so wide and complex as those which take place during migration. Practically everything that surrounds the person who emigrates changes. Aspects ranging from diet, family and social relations to climate, language, culture, and status are subject to change.

The decision to migrate originates in a perceived lack of prospects that a person has in his own country. Every person who emigrates experiences affective loss, but is buoyed up in the hope of finding the *first world paradise* they know so little about.

In terms of psychiatric and psychological assistance, the singularity of the migratory experience lies in the fact that it is a psycho-social process of loss and change, which is known in the psychiatry of migration as a grief process (Calvo, 1971, 1972, 1977; Tizón et al., 1981, 1983 y Gringberg, 1984, op. cit. Lurbe, 2002).

Atxotegui, director of a pioneer organisation in Spain, which practices multicultural psychiatry, explains the process of migration through a model consisting of seven grieves (losses) causing anguish that a person will experience with time: family and friends, language, culture, homeland, loss of status, loss of the contact with their own ethnic group, and exposure to physical risks. The anguish consists in the reintegration of the personality which takes place when something very significant for the subject has been lost (Atxotegui, 2000).

Difficulties in expressing grief can cause psychological problems. SAPPPIR is a psycho-social and psychological assistance service for immigrants and refugees located in Barcelona. According to the centre's experience in refugee and immigrant assistance, "with the lack of development of the migratory project, more difficulties will appear in the expression of grief" (ibid, 2000).

These difficulties are accentuated when migration is accomplished under adverse conditions. Research<sup>41</sup> about conditions which points to mental and psychosomatic disorders in immigrants living in Spain came up with the following factors affecting the mental health of immigrants: labour and economic instability, cultural and social marginalisation, family estrangement, pressures to send money to their families, racial discrimination and lack of statutory documentation.

Also, based on foreign literature and the scarce information available in Spain, Ugalde has suggested that the health conditions of immigrants in Spain are affected by (Ugalde, 1997):

- *High risk labour conditions*, long working day and, in general, labour exploitation. European Union positions Spain as the second country - only surpassed by Greece - with the highest black economy rate (El País, 06-08-01). One in three employers hire their labour force from undocumented immigrants.
- *Work and legal instability*.
- *Family estrangement and lack of psycho-social support*.
- *Drug abuse*
- *Hard living conditions and overcrowding*. For example, in El Ejido it was found that 80% of immigrants weren't living in proper housing; surveys carried out in Barcelona arrived at the conclusion that almost all the houses are rented without the *Cédula de habitabilidad*<sup>42</sup> from the Generalitat of Catalonia<sup>43</sup>.
- Existence of certain *cultural values* that oppose hygienic rules and recommendable nutritional practices.

<sup>41</sup> These results come from different investigations carried out by Pumares (1993), Páez (1993), Zapata de la Vega (1993), Gómez Rodríguez (1992), Jabardo Velasco (1993), Celaya (1993), Solé (1992), and Alvite (1995).

<sup>42</sup> Hygiene and health inspections on the behalf of the appropriate authorities.

<sup>43</sup> Autonomous government.

According to Kareem's words, these "*socio-political and economic factors, over which the individual may have little or no control, affect the inner world of us all*" (Kareem & Littlewood, 2000).

Psychiatrists from the Psycho-pathological and Psycho-social Assistance Service (SAPPIR) team, located in Barcelona, have described the common symptoms<sup>44</sup> that most immigrants present when attending the centre and have called it *Ulysses syndrome*, relating the risky and hard journey that the immigrants pursue in search of a better life with the odyssey of the mythical Greek character in his long voyage through the Mediterranean. Immigrants affected by this syndrome suffer from a depressive and chronic stress state that could lead to a mental disorder. The development of this condition occurs progressively as the immigrant encounters the obstacles that take place during the migration process: dangerous journey, distance from their own environment and family, difficulties to find a job and obtain documents, and the racism suffered in the reception country. Hence, the importance of a prompt intervention.

According to the opinion of the head psychiatrist, the current immigration policy, which is limiting immigrants regularisation possibilities, is increasing the number of "paper-less" heading for marginalisation and misery, which consequently increases the possibility of contracting this syndrome. Also, a psychologist from the Red Cross refugee assistance service have reported that from year 2000 patients present more serious diagnosis.

"Paper-less" or, undocumented migrants, are detained in a provisional way and lodged in an interment centre, *Centros de Internamiento de Extranjeros*<sup>45</sup>(CIE) while they wait to be expelled. Residence in Spain without documents is not a crime but an administrative misdemeanour, so the internment could not take place in a penitentiary centre. In Spain there are six CIE in different cities: Madrid, Málaga, Melilla, Barcelona, Murcia, Valencia and Las Palmas, Canary Islands. In these centres the internees have undergone dreadful living conditions - lack of light and ventilation, visiting restrictions, lack of external communication, separation of children and parents - and insufficient legal guaranties. Access to these centres has been constantly denied to immigrant associations and the mass media. There is a lack of provision and information regarding health and social care assistance, and heavy restrictions with regard to the visiting regime. (Solana, 2002).

Some of these conditions surely affect refugees and asylum-seekers living in Spain as well, but their experience differs from those of "economic migrants", in crucial aspects.

Refugees have had to flee to another country without having any migratory project, so the process of adjustment is much more difficult. Their only one project

<sup>44</sup> Symptoms of *Ulysses Syndrome* include: anxiety, depression, sadness, fear, irritability, reclusion and psychosomatic disorders (migraines and abdominal pain or intense fatigue) and, in the worst cases, psychotic disorders.

<sup>45</sup> Migrant Internment Centre.

might be to return to their country as soon as the living conditions are more favourable. The fact of being unaware of the possibility of returning represents a loss – instead of a separation which occurs in the case of “economic migrants” – therefore their anguish is greater (Atxotegui, 2000).

Studies about the mental health of refugees often divide refugees experience into three episodes and consider the mental health implications of each (Ager, 1993). Firstly, there are the traumatic experiences refugees may have faced in their home countries such as war, famine and persecution. Secondly, there is the process of flight from the home country, which can be as hazardous and stressful as the problems that led to the initial decision to escape. The third and final episode, relates to all the problems a refugee must face when resettled in the asylum country or in a refugee camp (Watters, 2002).

The psycho-social consequences of displacement may be usefully considered with respect to distinct phases in the refugee experience, for each of which a range of characteristic stressors may be used (Baker, 1983; Ben-Porah, 1991, Felsman et al. 1990 op.cit. Ager, 1993). Ager identifies stressors as economic hardship, social disruption, physical violence, and political oppression during the first stage; separation and passage during the second; and settlement, cultural conflict, employment difficulties and intergenerational conflict during the last stage. As ameliorative factors, he points to family integration and attachment, social support, religious affiliation and political ideology.

The personal experience of these events and the way they will later damage in a psychological and physical level depends, among other factors, on the personal characteristics of each person, the length and intensity of the conflict, the violence and gravity of the crime, perception and interpretation of this gravity and the responsibility attributed to others.

Epidemiological studies across diverse cultures and contexts have detected high levels of trauma in displaced populations (Silove et al, 2000). Much recent debate in the field of refugee’s mental health has focused on the Post Traumatic Stress Disorder (PTSD) which is about the most common mental health disorder diagnosed among this group.

PTSD is recognised as a distinct psychiatric condition and is included in the DSM-III of the American Psychiatric Association in 1980. It arose in a particular social and economic context following the Vietnam war, and has gone on to be applied universally to victims of war and persecution regardless of cultural groups and places of origin (Young, 1995 op. cit Watters, 2000). However, PTSD is not only a disorder of victims of war. It affects all people who have undergone a traumatic experience which generates stress. These experiences provoke changes in their lives because they lack the necessary resources to deal with them, producing anxiety reactions. Examples of affected groups are: policemen, security guards, bodyguards, prisoners, and victims of accidents and rape.

The key to understanding the scientific basis of PTSD is the concept of *trauma*. According to DSM-IV, the person must have been exposed to a traumatic event in which both of the following have been present ([www.ndpstd.org](http://www.ndpstd.org)):

1. The person has experienced, witnessed, or been confronted with an event that involves real or threatened death or serious injury, or a threat to the physical integrity of oneself or others.
2. The person's response involved intense fear, helplessness, or horror. In children it may be expressed instead by disorganised or agitated behaviour.

People who suffer from PTSD often relive their experience through nightmares and flashbacks, have difficulty sleeping, and feel detached or estranged, and these symptoms can be severe enough and last long enough to significantly impair the person's daily life (ibid, 2002). In those persons who were exposed to intense traumas in the past, certain posterior life events such as the loss of a job or a relative, retirement, etc., can cause the reappearance of the original symptoms (Westermeyer, 1989 op.cit Caballero, 2002).

Asylum-seekers present diverse and changing demands as time passes. Some demands concern information, housing and economic resources, training and labour, psychological, schooling, leisure and cultural activities.

The first and most important thing to do is to provide the victims with a place where they can feel safe and protected, feelings they have lost during the stress situation, and which is an important factor to prevent serious physical and psychological problems. Working and schooling, in the case of children, should start as soon as possible, facilitating their integration and reducing anxiety. The information available identifies the period of time following their arrival until the asylum claim resolution, as the most vulnerable period, psychologically speaking.

Also, asylum-seekers demand psychological assistance to deal with the specific problems related to having to leave their country or move inside it in a forced way. These problems are associated with anguish, fear, suspiciousness, sentiments of guilt (if they have left their family behind) and depressive, anxious and psychotic clinical patterns (IMSERSO, 1998).

Research on the mental health needs of asylum-seekers and refugees highlights the importance of getting urgent reinforcement on a psychological level. This support should go along with the covering of possible health needs and the establishment of a day-to-day routine that leads to a normalisation of the abnormal situation. Moreover, leisure activities would contribute to their welfare and personal promotion while cultural knowledge of the asylum country is offered.

Interventions must not only be on a psychological level but also on a psycho-social level to enable the adequate confrontation of the subject with respect to family and community disintegration and the need of social support to overcome it. Psycho-social intervention takes into account the physical, psychological and social difficulties of the population in an interrelated way.

