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MINORITIES, HATE AND RADICALISM IN SPAIN (2018-2020)

Table of contents

0. Introduction	1
1. Legislation affecting the interests of minorities	2
2. Law enforcement practices affecting minorities	7
3. The attitude of society towards immigrants, foreigners, various ethnic and religious groups.....	11
4. Activities of right-wing radical groups and parties	16
5. Activities of radical Islamism in Spain	17
6. Hate crimes	19
7. Conclusions for the period 2018-2020	20
8. Recommendations	21

0. Introduction

This report aims to explain the changes in several areas affecting minorities in Spain, such as legislation, law enforcement practices, hate crimes, or radicalism among others, during the period from 2018 to 2020. This work builds on a previous report entitled “The Problems of Tolerance in Spain (2017)”¹.

As an introduction, it is worth mentioning the political context in Spain for the years 2018 to 2020, as important changes have taken place. The conservative Popular Party had governed Spain since 2011, winning the general elections of 2011 and 2016. No general elections were in principle due until 2020. However, in May 2018, the final ruling of a big criminal case, known as the Gürtel case, was handed down. Gürtel was a political corruption network directly involving the Popular Party. During the trial, even the then Spanish president Mariano Rajoy had to testify as witness. The case and the ruling, confirming the widespread corruption and sentencing several PP politicians to jail, had a huge impact on public opinion. Only a few days after the sentence, a no-confidence vote was called, led by the Socialist Party. The government of Rajoy lost the vote, and the Socialist Party started then a minority government, in June 2018. It was the first time that a no-confidence vote was successful.

General elections were held in April 2019, and a month after, local, European, and several regional elections also took place in Spain. While the Socialist Party won the general elections, it did not have sufficient votes to form a government. But talks with other parties (mainly Unidas Podemos, the left-wing party) were unsuccessful and, after a few months, elections were called again for November 2019. It is worth mentioning that in the April 2019 elections, the far-right party Vox, founded only in 2013 and which had gained access to a regional parliament only in December 2018, won 24 seats in the Spanish parliament (*Congreso de los Diputados*). It was the first time a far-right party had any seats in the Spanish parliament

¹ Authored by Ana García Juanatey and Bettina Steible, Available at: <https://civic-nation.org/publications/the-problems-of-tolerance-in-spain-2017/>

since 1982².

On 10 November 2019, Spanish citizens voted once more in the general elections. The Socialist Party won again but, as in April, the support of other political forces was needed to be able to form government. This time, talks were fruitful and a coalition government, the first one since the return to democracy³, was formed between the Socialist Party and Unidas Podemos. They called themselves “a government of progress”.

But again, the far-right Vox more than doubled the results obtained in the April elections, obtaining this time 52 seats in the Spanish parliament. In a matter of months, Vox had gone from having no representation in any Spanish institution to becoming the third most voted party in Spain. This success of Vox put an end to the so-called Spanish exceptionalism.

Finally, in 2020, only a couple of months after the coalition government started to rule, the Covid-19 global pandemic arrived. As it is well known, Spain was one of the most affected countries, and a very harsh lockdown was imposed by mid-March keeping the whole population inside their houses except for essential works that lasted until June. More than 45,000 people have died so far of coronavirus in Spain in 2020. This is having a profound impact on Spain, economically, socially, and politically.

1. Legislation affecting the interests of minorities

Generally, legislative activity during the period under review (2018-2020) has not been intense in the areas that affect minorities. This has been due to, mainly, two reasons. Firstly, political instability during 2018 and 2019. Temporariness until the coalition government was formed in 2020, and general elections in April and November 2019 (with the corresponding dissolutions of Parliament) made the approval of any legislation difficult. Secondly, the Covid-19 outbreak during 2020 has also meant that the efforts and initiatives have been concentrated mainly in the crisis.

Spain is party to several treaties that are relevant for the rights of minorities, both at international⁴ and regional⁵ levels. Moreover, as member of the European Union, the EU treaties, among others the EU Charter on fundamental rights, have primacy in Spain, and EU legislation affecting the interests of minorities have been transposed in Spain⁶.

² A far-right party called Fuerza Nueva had one seat from 1979 to 1982.

³ After the dictator Francisco Franco died in 1975, Spain started a transition towards democracy. The first elections after the dictatorship were held in 1977.

⁴ International Convention on the Elimination of All Forms of Racial Discrimination, Universal Declaration of Human Rights, International Covenant on civil and political rights, Convention on the elimination of all forms of discrimination against women, Convention on the Rights of Persons with Disabilities, International Labour Organization Discrimination (Employment and Occupation) Convention, 1958 (No. 111), 1948 Convention on the prevention and punishment of the crime of genocide, UNESCO Convention against discrimination in education, the Rome Statute on the International Criminal Court, and since 2018 the 1961 Convention on the reduction of statelessness.

⁵ European Convention for the Protection of Human Rights and Fundamental Freedoms, European Charter for Regional or Minority Languages and Framework Convention for the Protection of National Minorities.

⁶ Mainly, the Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. The Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, and the Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law.

This section will focus on legislation at national level in Spain, but it is worth noting that legislation at regional level also exists and has effects in the rights of minorities. Regional legislation falls beyond the scope of this report.

Anti-discrimination legislation

Spain currently lacks a comprehensive anti-discrimination law. While attempts have been made to approve such law in 2011 and 2018, so far the legal framework remains fragmented. As such, it does not ensure an acceptable protection against discrimination, as it has been repeatedly denounced by different international instances⁷. Such comprehensive legislation would ensure that all forms of discrimination (not only the most serious ones foreseen in the Criminal Code) are included, and therefore can also have legal protection. Currently, acts such as the refusal to rent a home to someone on the grounds of their ethnic origin, for example, are not contemplated, cannot be prosecuted, and no sanctions are in place.

As indicated, the Comprehensive Bill for Equal Treatment and Non-discrimination was proposed in Parliament in 2018 but was automatically withdrawn with the dissolution of the Parliament in advance to the general elections in 2019. Therefore, the proposal needs to be re-introduced once again. In 2020, the current government expressed the intention to approve it in the near future⁸.

Nowadays, anti-discrimination provisions are contained, mainly, in the Spanish Constitution of 1978 and Law 62/2003 on Fiscal, Administrative and Social Measures⁹. Article 14 of the Constitution provides that all Spanish are equal, and it prohibits discrimination on any “personal or social condition or circumstance”. Law 62/2003, which transposed EU Directives on equality 2000/43¹⁰ and 2000/78¹¹, forbids direct and indirect discrimination on the grounds of “racial or ethnic origin, religion or beliefs, disability, age or sexual orientation”, and establishes the possibility of positive action on the grounds of racial and ethnic origin. While it does not establish a general compensation and fines system for all discrimination cases, it does so specifically for the field of employment. It needs to be noted that the transposition of the EU Directives has been “minimal”¹².

This Law 62/2003 also foresees the creation of the Council for the Elimination of Racial or Ethnic Discrimination (CERED), to assist victims of discrimination, promote measures to ensure equality and to conduct research. However, this body has never been fully operational. Although since 2018, with the appointment of a new chair, it has been somehow strengthened (by having an allocated budget and approving its 2019 Work Plan), several international organisations urged Spain to create a fully independent and operational equality body. This was foreseen in the draft Comprehensive Bill for Equal Treatment and Non-discrimination.

Additionally, Law 19/2007 against violence, racism, xenophobia and intolerance in sport contains specific measures applicable to the field of sports activities. A draft law was introduced in 2017 in the Spanish Parliament to amend Law 19/2007 with the aim of eliminating homophobia, biphobia and transphobia in sport. In June 2020, one of the Parliament’s chamber (the Senate) approved the draft law, so it is now waiting to receive the final approval by the other chamber, the Congress.

⁷ <https://rm.coe.int/5th-op-spain-en/16809fdd58>

⁸ <https://www.europapress.es/sociedad/noticia-espana-compromete-onu-mejorar-proteccion-migrantes-refugiados-aprobar-ley-igualdad-trato-20200716171626.html>

⁹ <https://www.boe.es/eli/es/l/2003/12/30/62>

¹⁰ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin

¹¹ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation

¹² <https://www.equalitylaw.eu/downloads/5227-spain-country-report-non-discrimination-2020-1-56-mb>

Anti-discrimination provisions are also found in several laws: the Statute of Workers, which generally prohibits discrimination against any employee (article 4.2) and provides that discriminatory provisions in contracts, agreements or regulations are null and void (article 17); the Foreigners Law 4/2000, that refers to acts of discrimination (article 23); Law 6/2002 of political parties, which establishes that any political party that promotes, justifies or excuses the exclusion or persecution of persons on discriminatory grounds is to be declared illegal (article 9.2); and the Organic Law 7/1980 on religious freedom, which provides that religious beliefs may not constitute a reason for inequality or discrimination before the law, nor may be alleged to prevent anyone from performing any work, activity, responsibility or public office (article 1).

Finally, the Criminal Code must also be mentioned as it contains important anti-discriminatory provisions: it establishes discrimination on certain grounds (among others, ethnic origin, race or nationality, ideology, religion or beliefs, etc.) as an aggravating circumstance (article 22.4), it punishes the act of treating a person in a humiliating way, badly affecting his or her moral integrity (article 173), it punishes with prison serious discrimination on those grounds, in employment (article 314), it makes it a criminal offence to incite discrimination (article 510) and to deny benefits or provision of services on discriminatory grounds (articles 511 and 512), and it declares illegal those associations that promote or incite, hostility, discrimination or violence against other people or groups on discriminatory grounds (articles 515 to 517).

The Spanish government is also intent on passing a law on LGTBI equality at state level (similar laws exist in several regions but not all). A draft bill was presented in the Spanish Parliament in 2017, although it was withdrawn as a result of the Parliament's dissolution in advance to the general elections of 2019. Likewise, there are discussions regarding a new law to protect transgender people, although there is heated debate among the two parties forming the coalition government.

Migration legislation

The Organic Law 4/2000 on the rights and freedoms of foreigners in Spain and their social integration (known as Foreigners Law) is the main piece of legislation that governs migration-related matters in Spain. It recognises the rights and obligations of foreigners as well as the requirements and procedures for entry, stay and work in the country. A substantial reform took place in 2009, by means of the Organic Law 2/2009. It extended the rights of irregular migrants (for example, the right to assemble, to strike, to free education, and to free legal protection, among others), in accordance with the rulings of the Constitutional Court. On the other hand, it introduced some restrictive measures. For example, it revised family reunification policies, introduced higher fines for employers of irregular migrants, and increased the time of administrative detention. In February 2020, the Spanish government expressed their intention of reforming the current Foreigners Law, but no further steps have been made in this regard.

As indicated in the 2017 report¹³, in the year 2012, universal health access was restricted in Spain through Royal Decree-Law 16/2012. Irregular migrants lost the right to access the health system, except for cases of urgency. However, in 2018, the right to free health care was re-established in Spain through the approval of the Royal Decree-Law 7/2018 on universal access to the health system.

While this has been the most important development in the last years in migration-related legislation, other developments have taken place in the period under review. Firstly, in 2018, the area of migration was included again as a Ministry by the new Spanish government. In 2012, it had been relegated to a general directorate within the Ministry of Employment and Social Security. In 2018, the Ministry of Inclusion, Social Security and Migrations was created, with a State Secretariat for Migration. This is an indication of the salience the Spanish government grants to the area of migration. Secondly, in November 2018, the

¹³ García Juanatey, A. and B. Steible (2017) "The Problems of Tolerance in Spain (2017). Available at: [Available at: https://civic-nation.org/publications/the-problems-of-tolerance-in-spain-2017/](https://civic-nation.org/publications/the-problems-of-tolerance-in-spain-2017/)

international 1961 Convention on the Reduction of Statelessness was ratified by the Spanish government. Furthermore, the Spanish government announced in 2018 that it would recover the Fund for the Integration, Reception and Education Support of Immigrants, which had been deleted in 2012. In effect, in 2019 a budget of 70 million Euros was granted to the Fund by means of Royal Decree-Law 8/2019 on urgent measures for social protection and against precarious work in the working day.

Finally, in 2020, a number of measures were taken during the Covid-19 lockdown in Spain. Firstly, the approval of Royal Decree-Law 13/2020 adopting urgent measures in the field of agricultural employment, to loosen requirements for temporary employment in the agricultural sector. Migrants with work and residence permits that had expired between March and June 2020, and foreign youngsters between 18 to 21 years old could benefit from the flexibility measures approved¹⁴. Likewise, an automatic extension for 6 months of the temporary residence and work permits that expired during the lockdown or 90 days before¹⁵ was also approved.

Legislation aimed at combating hate crimes

The Spanish Criminal Code¹⁶ contains a range of articles that make hate expressions and hate actions a criminal offence. Generally, when a criminal offence is committed by reason of discrimination (“*for racist or anti-Semitic reasons, or another kind of discrimination related to ideology, religion or belief of the victim, ethnicity, race or nation to which he/[she] belongs, his/[her] sex, sexual orientation or identity, and grounds related to gender, illness or disability*”), this is considered to be an aggravating circumstance (article 22.4).

In 2015, a reform of the Criminal Code took place. One of the fundamental changes was the amendment of article 510 concerning hate speech. This provision penalises public incitement to violence, hatred or discrimination, due to racism, antisemitism, or other related to ideology, religion or beliefs, family situation, belonging to an ethnic group, race or nation, national origin, sex, sexual orientation or sexual identity, gender, illness or handicap; the infringement of the dignity of people through actions involving humiliation, contempt or disparagement on those same grounds; and the public denial, trivialisation and glorification of crimes of genocide, crimes against humanity or against persons protected in armed conflicts, only if they promote or encourage a climate of violence, hostility, hatred or discrimination.

Other provisions in the Criminal Code also regulate hate crime, making a criminal offense threats intended to frighten members of certain groups (among others, ethnic, cultural or religious group) (article 170); the denial, by someone in a public service or in the exercise of professional or business activities, of a benefit to which a person is entitled, on discriminatory grounds (among others ethnicity, national origin, sexual orientation) (articles 511 and 512); organizations that are intended to commit criminal offences or to promote or incite to hatred, hostility or discrimination (article 515); genocide (article 607).

While the 2015 reform of the Criminal Code was welcome, the European Commission against Racism and Intolerance (ECRI) has also issued several criticisms to the regulation¹⁷. Mainly, the grounds of colour, language, citizenship and gender identity should be included in all relevant provisions, it should criminalise the support for groups that promote racism, as well as all racial discrimination in the exercise of a public office or occupation (and not only when denying a benefit).

¹⁴ In the case of foreign youngsters between 18 to 21 years old that worked in the agricultural sector during the lockdown have been granted a residence and work permit of 2 years.

¹⁵ <https://www.boe.es/buscar/doc.php?id=BOE-A-2020-5141>

¹⁶ <https://www.boe.es/buscar/act.php?id=BOE-A-1995-25444&tn=1&p=20190302>

¹⁷ <https://rm.coe.int/fifth-report-on-spain/16808b56c9>

No legislative developments have occurred during the period under review (2018-2020). However, it is worth mentioning the official memo (Circular 7/2019¹⁸) adopted by the Spanish Prosecutor in May 2019 with guidelines on the interpretation of hate crime under article 510 of the Criminal Code. As explained above, discrimination on the grounds of ideology is included in article 22.4 as an aggravating circumstance, as well as in article 510 as one of the discriminatory grounds. The memo argues that any ideology is protected, without considering the moral ethics of such ideology. Therefore, it says, an attack against someone of Nazi ideology, or even the incitement to hatred against such group, could be considered as hate crime. This raised the alarms and was criticised by many human rights organisations and legal experts. Another important aspect of the memo is that it highlights the importance to prove the intention of the individual at the time of sending the message that can be considered as hate speech.

Finally, in October 2020, the left-wing party Unidas Podemos, currently party to the government coalition, filed an initiative in Parliament concerning the “Prevention of spread of hate speech in the digital space”. Among other measures, the initiative proposes that technological platforms must delete those hateful contents before 24 hours, or one hour in case the victims are minors. So far, it is only an initiative to be debated in Parliament.

Discriminatory legislation affecting minorities

The legislation concerning anti-discrimination, migration and hate crimes is far from flawless and has received recommendations for improvement from several international organisations many times, such as the ECRI. In addition to those faults, there are some measures that are considered as discriminatory in themselves.

Firstly, article 14 of the Spanish Constitution¹⁹ establishes that “*Spaniards are equal before the law and may not in any way be discriminated against on account of birth, race, sex, religion, opinion or any other personal or social condition or circumstance*”. Thus, the Spanish Constitution does not formally grant equal rights to all individuals, but just to Spanish citizens.

Secondly, the Foreigners Law has also been the target of much criticism. One of the provisions that are considered discriminatory is the one concerning the detention of irregular migrants in specific detention centres (articles 60 to 62). This practice of detaining without having committed any crime (the irregularity is an administrative issue rather than a crime) contravenes human rights. Likewise, the specific regulation of such detention centres is quite vague. In addition to the discriminatory nature of the provision itself, a more detailed review of the issues arising in their functioning can be read in the following section.

Thirdly, another relevant point to note is that anti-discrimination legislation, as well as hate crime provisions, do not specifically include anti-Gypsyism as one of the grounds of bias. This ends up resulting in a lower detection of discrimination on this ground, thus preventing the effective protection of Roma people against discrimination. It has been recommended by international organisations that this is specifically included in the relevant legislation²⁰.

On the other hand, it is to be highlighted that, as explained above, the discriminatory legislation that prevented irregular migrant to access health care was repealed in 2018 by Royal Decree-Law 7/2018 on universal access to the health system.

¹⁸ https://www.boe.es/diario_boe/txt.php?id=BOE-A-2019-7771

¹⁹ <https://www.boe.es/legislacion/documentos/ConstitucionINGLES.pdf>

²⁰ <https://rm.coe.int/5th-op-spain-en/16809fdd58>

2. Law enforcement practices affecting minorities

Implementation issues

While equality is enshrined in the Spanish Constitution and in other pieces of legislation, as referred in the previous section, its enforcement is far from perfect. On the contrary, the implementation of anti-discrimination and hate-related legislation in Spain has important issues. One of the fundamental causes is the lack, nowadays, of a comprehensive anti-discrimination law. Likewise, while the relevant EU Directives have mostly been transposed into the Spanish system (mainly by Law 62/2003), some articles have been left out or not fully reflected in the Spanish law. This has been criticised by the corresponding bodies, such as ECRI, or the country reports of the network of legal experts²¹. For example, sanctions or compensations for discrimination are established only for the case of employment, but not for other areas such as education or employment. The approval, in the future, of a comprehensive equality and anti-discrimination law, would most likely solve this issue.

Generally, the number of cases that are brought to court in Spain for discrimination issues is low, as has been observed by ECRI²². As referred to in the 2017 report, this is due to several issues, such as the bureaucracy and lack of compensation system, double victimization, lack of sufficient training of law enforcement authorities, and the lack of comprehensive legal framework, as well as lack of trust towards authorities. All this clearly results in underreporting of cases. Furthermore, there is no disaggregated data on the administration of justice, which makes it difficult to know the number of cases that have racial discrimination as an aggravating circumstance.

Discriminatory practices

Many NGOs have denounced the persistence of discriminatory practices in Spain. The practice of ethnic profiling, the existence of immigrant detention centres, certain practices regarding unaccompanied migrant children, or the practices in the Spanish Southern border, are the main ones.

Ethnic profiling by the police is a generalised discriminatory practice in Spain. While the Security Law of 2015 establishes the principle of no-discrimination in the identity checks (article 16.1), this is not what happens in practice. The police can carry out identity checks with no reason, and in most cases it is used against minority groups. A research carried out in Catalonia found that on average, a foreign-looking person is seven times more likely to be stopped by the police than a Spanish-looking one, and a Roma person is ten times more likely to be stopped than a white person²³. The harm of ethnic profiling is multiple. Firstly, it has an emotional and psychological effect on the person who suffers it, it is stigmatizing, and it increases distrust towards the policy²⁴. Moreover, on many occasions the identity check is accompanied with degrading treatment, as was the case of Zeshan Muhammad, a youngster of Pakistani origin who denounced that he had been subjected to ethnic profiling and was told that it was because “you are black”. A ruling on this (case Zeshan Muhammad vs Spain²⁵) is pending by the European Court of Human Rights. In some cases, it comes with mistreatment and police abuse. In extreme cases, it has even led to physical harm. In 2018, Mame Mbaye, a migrant street vendor, died of a heart attack while running away from the

²¹ <https://www.equalitylaw.eu/downloads/5227-spain-country-report-non-discrimination-2020-1-56-mb>

²² <https://rm.coe.int/fifth-report-on-spain/16808b56c9>

²³ <https://www.paraddepararme.org/assets/img/informe2018-es.pdf>

²⁴ <http://rightsinternationalspain.org/uploads/publicacion/1965aea9b1460b14f2afe5f0c9a17e1b90f0f689.pdf>

²⁵

[https://hudoc.echr.coe.int/eng#{%22fulltext%22:\[%22zeshan%22\],\[%22documentcollectionid%22:\[%22GRANDCHAMBER%22,%22CHAMBER%22,%22COMMUNICATEDCASES%22\],\[%22itemid%22:\[%22001-179961%22\]}](https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22zeshan%22],[%22documentcollectionid%22:[%22GRANDCHAMBER%22,%22CHAMBER%22,%22COMMUNICATEDCASES%22],[%22itemid%22:[%22001-179961%22]})

police in Madrid. Finally, some NGOs reported that ethnic profile had increased during the lockdown for the Covid-19 pandemic in Spain²⁶.

The existence and functioning of the Immigration Detention Centres (known as CIE) are also cause of great concern. Civil society organizations have repeatedly demanded their closure. People who have committed no criminal offence (but an administrative one) are detained in those facilities, which in practice function like a prison. While the maximum time of detention is 60 days, there is great concern also regarding the conditions of the detention, which do not comply with the legal requirements. There have been complaints for inhumane treatment and cases of aggressions, lack of adequate medical assistance, or deficiencies in terms of space, water or toilets, among other²⁷.

Children care centres where unaccompanied minor children live are also worrisome. The facilities are generally overcrowded and there is a general lack of resources. There have even been reports of cases of violence from security officers at some centres²⁸.

Likewise, unaccompanied migrant children are often subjected to age assessment procedures that are both unreliable (for example, it is common to do a wrist X-ray, which has a margin of error of 4 years) and humiliating (invasive genital examinations are common). The Committee on the Rights of the Child has determined in September 2020 that the procedures of age assessments violate the Convention on the Rights of the Child²⁹. Moreover, the outcome of this is of fundamental importance, since if a minor is determined to be an adult by such procedures, he or she is left out of the children's protection system.

On the other hand, the Foreigners Law (article 35.7) provides that unaccompanied migrant children are granted residence permit. However, until March 2020, this permit did not grant permission to work. In Spain, 16 is the minimum age to work, but foreigners must have a work permit. Therefore, migrant children from 16 to 18 were prevented to work. The issue arose when they ceased to be underage and had to renew their residence permit. With no previous work experience, the requirements to do that were exceedingly difficult to comply with. Being adults, they were left out of the protection system, resulting in many youngsters living in the street and falling into marginalisation. However, in March 2020, the government issued an instruction³⁰ clarifying that the residence permit does include the work permit, thus eliminating this difference between Spanish children and non-Spanish children.

Finally, discriminatory practices take place at the Southern border. Pushbacks of people trying to reach Spanish territory in Ceuta and Melilla are quite common. With this, the possibility of applying for asylum is severely damaged. Civil society organizations have been denouncing this for years and claiming for an end to such refolement practices, but this has become even more unlikely after the recent sentence of the ECHR. While in 2017 the ECHR had condemned Spain for such practice, the case was referred to ECHR Grand Chamber, who ruled in February 2020 in favour of the Spanish authorities. In this case, the ECHR decided that no rights had been violated by Spain, thus endorsing the practice of pushbacks, and breaking the principle of non-refoulement. The court argued that "*the applicants placed themselves in an unlawful situation*" and that they "*chose not to use the legal procedures which existed in order to enter Spanish territory lawfully*". The reality, however, is that Moroccan border guards prevent migrants from reaching the asylum office, and thus there is no access to such legal procedures³¹. In another tragic example of

²⁶ <https://sosracismo.eu/sos-racisme-catalunya-abuso-policial-covid-19/>

²⁷ <https://www.asylumineurope.org/reports/country/spain/conditions-detention-facilities>

²⁸ <http://www.fundacionraices.org/wp-content/uploads/2018/01/Alternative-report-executive-summary.pdf>

²⁹ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26375&LangID=E>

³⁰

http://extranjeros.inclusion.gob.es/ficheros/normativa/nacional/instrucciones_sgie/documentos/2020/report_final_20_0305_Instruccion_MENAS.pdf

³¹ <http://www.migreurop.org/article2954.html?lang=fr#nb1>

violence at the border, in 2014 the Spanish police used tear gas and fired rubber bullets against a group of migrant people that were swimming trying to reach Spanish shores in Ceuta. As a result, 15 people drowned, and 23 were returned to Morocco without any legal procedure. After years of court proceedings (the case was closed and reopened three times), the court finally filed the case in 2020, with no responsibility declared for the Spanish authorities or the agents involved, and without any compensations for the victims or their families³².

Anti-discrimination practices and measures

Firstly, a number of bodies were created by law (some in accordance with EU directives) to ensure equality and non-discrimination in Spain. The main ones are the Council for the Elimination of Racial or Ethnic Discrimination (which seems to have become more operational after 2018), and the attached Network of Centres of Assistance for Victims of Racial or Ethnic Discrimination; the National Roma Council; the Forum for the Social Integration of Immigrants; the Spanish Observatory on Racism and Xenophobia (OBERAXE); the Special Prosecutors on Discrimination and Hate Crimes; as well as the Office of the Ombudsman.

On the other hand, human rights and non-discrimination training programmes for law enforcement officers, health professionals or educators have been carried out by OBERAXE and campaigns to increase awareness of rights and resources have been launched.

Also, measures and initiatives at local level are of utmost importance. As a way of example there is a police unit focusing on diversity and hate crime in Madrid, the Office of Non-Discrimination in Barcelona, or the diversity coexistence plan in Gipuzkoa (Basque Country)³³.

Finally, it is worth mentioning that in July 2020 the Spanish government, through the Spanish Vice-President Pablo Iglesias, publicly apologised to Roma for the institutional racism they have suffered throughout centuries in Spain³⁴.

Fighting hate crimes

The fight against hate crimes in Spain has been more intense since the year 2012. Since 2013, the Ministry of Interior publishes a yearly report with statistics on reported hate crime and hate incidents. In terms of legislation, the reform of the Criminal Code in 2015 was a key step, as explained above.

At the beginning of 2018, the National Office to Combat Hate Crimes³⁵, under the State Secretariat for Security (Ministry of Interior), was created. One of its main objectives is to coordinate and supervise a specific action plan. In 2019, the first specific Action Plan Against Hate Crime³⁶ was approved. Before that, the “Action Protocol of the Spanish Security Forces for hate crimes and actions that infringe legal rules on discrimination” of 2014 was in place. In the 2019 Plan, the training of law enforcement agents as well as increasing the reporting of hate crimes are among the main objectives. It is to be highlighted that the new Plan establishes anti-Gypsyism as one of the categories of victims of hate crime. This is an important step and has been included in the report of this year 2020, concerning crimes committed in the previous year.

³² <https://www.cear.es/caso-tarajal/>

³³ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/249/75/PDF/G1824975.pdf?OpenElement>

³⁴ <https://www.europapress.es/epsocial/igualdad/noticia-pablo-iglesias-pide-perdon-pueblo-gitano-racismo-institucional-ellos-historia-espana-20200730140754.html>

³⁵ <http://www.interior.gob.es/es/web/servicios-al-ciudadano/delitos-de-odio>

³⁶ <http://www.interior.gob.es/documents/642012/3479677/Plan+de+accion+ingles/222063a3-5505-4a06-b464-a4052c6a9b48>

Also, there are Special Prosecutors on Discrimination and Hate Crimes in Spain, something that has been considered as best practice by the FRA. The first specialised prosecutor started in Barcelona in 2009, to focus on crimes against principles of equality and non-discrimination. Since 2013, each Spanish province has one.

As regards the criminal proceedings and convictions related to hate crime, while the yearly reports on hate crime are public, there is no data concerning their judicialization process. Having said that, the FRA highlights three court rulings in 2018 and 2019 as key in the area of discrimination and hate. In a sentence of 2018³⁷, the Supreme Court found that firing a Muslim woman because she was using the veil at work was lawful and therefore not discriminatory. The court considered that the decision of the company to forbid the veil responded to labour safety and hygienic requirements. On the other hand, in a sentence of 2019, the Barcelona Provincial High Court³⁸ condemned an individual for posting hateful messages against Muslims on Facebook, to eight months of jail, under articles 510 and 173 of the Criminal Code. Also in 2019, the Madrid Provincial High Court³⁹ condemned another individual for posting anti-Muslim hatred songs on YouTube. The court considered that this “*clearly attempts against the dignity of the immigrant collective*” and found that there was a clear intention to promote hatred and discrimination against migrants. In 2020, the Barcelona High Court condemn an individual, leader of a gang that met with homosexuals to harass them, to five and a half years of jail⁴⁰.

Fighting radicalism

European directives on terrorism have been duly transposed. The Spanish legislation, however, goes a bit further than the European directives. Currently, the main piece of legislation is the Organic Law 2/2015, modifying the Criminal Code regarding terrorism-related crimes, extremely focused on violent jihadi terrorism. In addition to the legislative measures, the current National Strategy against Terrorism was approved in 2019⁴¹ and will be in force until 2023, replacing the previous Strategy of 2012. It is the first time that the plan is made public, a welcome step in terms of transparency, and which was made to encourage participation of the public. The new Strategy is in line with the European framework against terrorism, and has four pillars: prevention, protection of citizens, prosecution and investigation, and response to terrorist attacks. It focuses greatly on the return of former ISIS and Al Qaeda fighters to Spain. Within this strategy, a Strategic National Plan to Prevent and Combat Violent Radicalization and a Strategic National Plan to Fight against terrorism financing have been approved in 2020.

The enforcement of anti-terrorist legislation has risen multiple concerns. Firstly, the concept of terrorism itself has been criticised for being too wide. Some legal experts and human rights activists have warned that it constitutes a type of “preventive” justice and have pointed at the ambiguous definition of terrorism and at limitations that are considered disproportionate⁴². Likewise, some preventive measures, such as

³⁷ [Spain / Supreme Court Social Section \(Tribunal Supremo. Sala de lo Social\) / ATS 6331/2018 - ECLI: ES:TS:2018:6331A | EU FUNDAMENTAL RIGHTS DATABASE \(europa.eu\)](#)

³⁸ [Spain / Barcelona Provincial High Court, Criminal Judgement \(Sentencia Audiencia Provincial de Barcelona, Sala de lo Penal\) /2018-219 Roj: SAP B 6183/2019 - ECLI: ES:APB:2019:6183 | EU FUNDAMENTAL RIGHTS DATABASE \(europa.eu\)](#)

³⁹ [Spain / Madrid Provincial High Court , Criminal Judgement \(Audiencia Provincial de Madrid, Sala de lo Penal\) / SAP M 1843/2019, Rec. 2037/2018, ECLI: ES:APM:2019:1843 | EU FUNDAMENTAL RIGHTS DATABASE \(europa.eu\)](#)

⁴⁰ <https://www.lavanguardia.com/vida/20200723/482476703303/la-audiencia-confirma-el-ingreso-en-prision-del-neonazi-que-vejaba-gays.html>

⁴¹ <https://www.lamoncloa.gob.es/serviciosdeprensa/notasprensa/interior/Documents/2019/260219-EstrategiaContraTerrorismo.pdf>

⁴² https://novact.org/wp-content/uploads/2017/09/Sin-derechos-no-hay-seguridad_WEB.pdf

protocols for the detection of radicalisation in schools- raise serious concerns for their effect of stigmatising Muslims and the practice of religion.

On the other hand, anti-terrorism provisions have been used to curb freedom of expression. In the last years, there have been cases of musicians and social media users who have been prosecuted -and some sentenced to jail- for satire tweets or songs, under the charges of glorifying terrorism and humiliating victims of terrorism⁴³.

In addition, and importantly, the focus is mostly on violent jihadism, ignoring the threat of right-wing terrorism.

3. The attitude of society towards immigrants, foreigners, various ethnic and religious groups

The main minorities and ethnic groups in Spain are migrants, Roma and Muslims. While there is a Jewish community, it is small (around 40,000 members) and there is little data. Social attitudes towards these groups can be measured using different surveys and studies, carried out by the Spanish Centre for Sociological Research (CIS, *Centro de Investigaciones Sociológicas*) and other global or regional surveys, such as the EU Barometer or FRA surveys.

As an introduction, and according to the last survey on discrimination carried out by CIS in 2016⁴⁴, 58% of the Spanish population would like to live in a society with people of different ethnic origin, culture or religion (compared to 53.1% in 2013), while 33.7% said they would like to live in a society with a majority of people of the same origin, culture and religion (compared to 39% in 2013).

Attitudes towards migrants

Spanish citizens tend to have open attitudes towards migrants, especially in comparison with other European countries⁴⁵. Attitudes in Spain can be measured with surveys carried out by the CIS. The last comprehensive report on Attitudes Towards Immigrants was made in 2017⁴⁶. In this survey, 51.6% of the respondents considered immigration to be positive for Spain, while 25.9% believed it to be negative. This data showed some improvement compared to the previous years, but we cannot measure the progress after 2017 as this survey has not been carried out again. Likewise, the last survey on Discrimination, of 2016⁴⁷, showed that 71.6% of the respondents would feel comfortable having migrants as neighbors, while 14.1% said they would not be comfortable. Again, there was some improvement compared to the previous report on discrimination in the year 2013 (in which 67.4% said they would feel comfortable). It is to be noted that it is the minority towards which people is more comfortable living next to (compared to Muslims or Roma. No question about Jewish was asked).

Unfortunately, there has not been a similar survey, focusing on attitudes towards migration, since 2017. However, the CIS carries out a monthly survey on a range of matters. Among other questions, the survey asked respondents "*what is, in their view, the main problem that currently exists in Spain*". While this does not show the sentiment towards migrants, the higher or lower salience of immigration as a

⁴³ <https://www.amnesty.org/download/Documents/EUR4179242018ENGLISH.PDF>

⁴⁴ http://www.cis.es/cis/export/sites/default/-Archivos/Marginales/3140_3159/3150/es3150mar.pdf

⁴⁵ Rinken, Sebastian. «Actitudes ante la inmigración y comportamiento electoral en España». *Anuario CIDOB de la Inmigración 2019* (noviembre de 2019), p. 68-81. DOI: doi.org/10.24241/AnuarioCIDOBInmi.2019.68

⁴⁶ http://www.cis.es/cis/export/sites/default/-Archivos/Marginales/3180_3199/3190/es3190mar.pdf

⁴⁷ http://www.cis.es/cis/export/sites/default/-Archivos/Marginales/3140_3159/3150/es3150mar.pdf

problem could be an indication of the shifting attitudes towards migration. This however needs to be taken with care since the salience is generally related to events and media attention. In the long run, this could affect the attitudes, but there is no clear correlation.

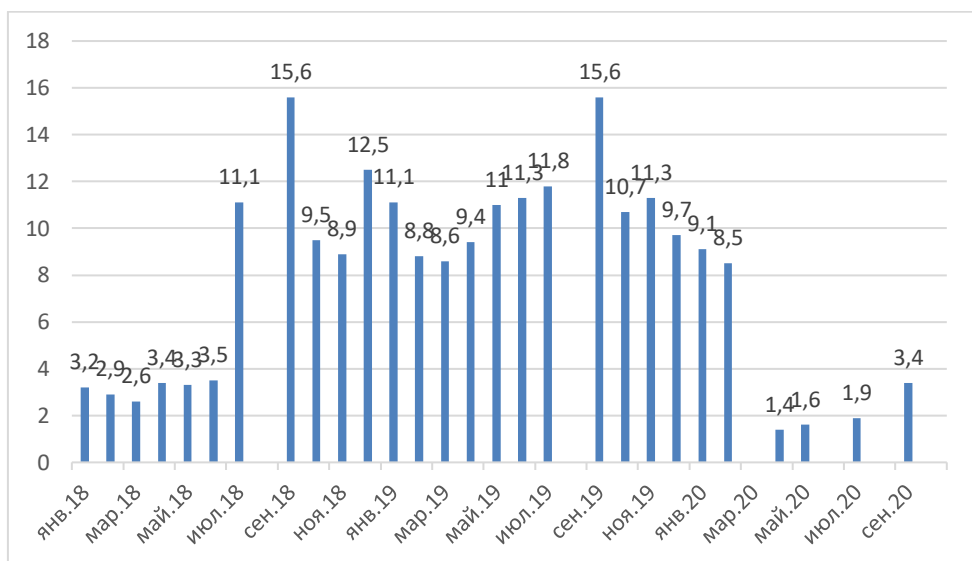


Figure 1 – Salience of immigration as one of the three main problems in Spain. Source: data from CIS, own elaboration

This figure shows the percentage of respondents that put immigration as one of the three main problems in Spain. It is striking to notice the sharp increase in the second half of 2018. While in the first half only around 3% of the respondents considered immigration to be one of the main problems, this rose to 11% and then 15.6% in July and September, respectively. This sudden increase appears to be related to certain events that occurred during those months. In June 2018, the vessel Aquarius carrying 630 migrant people that had been rescued at sea was not allowed to disembark in Italy and Malta, was accepted by Spain. It attracted a lot of debate and media attention. Also, the appearance of the far-right party around the second half of 2018 and its first electoral success in December of that year in the region of Andalusia, could also be an explanation for the rise of the percentage of respondents perceiving immigration as a main problem. Throughout 2019, immigration was more politicized than before, mainly by Vox and their focus on the case of unaccompanied migrant children arriving in Spain. Vox discourse and the media contributed to their criminalization. Then, as of March 2020, immigration as a main problem is seen as such by less than 2% of the respondents. This is clearly due to the Covid-19 pandemic. In the last months of 2020, the percentage has increased a bit and it will probably do so more, due to the increase of arrivals by sea in the Canary Islands, without due reception measures, and with strong media focus.

Some international surveys and studies also reflect Spanish attitudes towards migrants. Thus, a survey carried out in 2018 by Pew Research⁴⁸ on how migrants are viewed in different countries, showed that 56% in Spain viewed migrants as a strength to the country (compared to 47% in 2014), while 37% viewed them as a burden. Likewise, a report published by the think tank ODI⁴⁹ of 2020 showed that 28% say more migrants should be allowed to move to Spain, 30% less, and 39% the same. It is worth noting that out of the European countries surveyed, Spain is the one with a higher percentage saying that want more immigration, and the one with the lower percentage saying that there should be less.

⁴⁸ <https://www.pewresearch.org/global/2019/03/14/around-the-world-more-say-immigrants-are-a-strength-than-a-burden/>

⁴⁹ https://www.odi.org/sites/odi.org.uk/files/resource-documents/202009_odi_public_attitudes_towards_immigration_wp_final_0.pdf

Finally, a Eurobarometer⁵⁰ published in April 2018 (with data obtained in October 2017) showed that Spanish overestimate the number of immigrants living in Spain: generally, the respondents estimated that 23.2% of the population in Spain is immigrant, while the real percentage is only 8.8%.

Attitudes towards other minorities: Muslims, Roma and Jewish

Both Muslims and Roma have historically suffered discrimination in Spain, and prejudices and stereotypes about them abound and are deeply rooted, as explained in the report “The problems of tolerance in Spain (2017)”⁵¹. The Jewish community has a minor presence in Spain nowadays (represent a 0.2% of the population, around 40,000 people).

A recent survey about discrimination and intolerance towards Muslims⁵² in Spain was published in November 2020. This survey focused on the perceptions that public entities, associations and NGOs have regarding the attitudes and prejudices among Spanish population towards Muslims. The survey asked about the groups that are less liked in Spain. Respondents believed that Roma and Muslims are the less liked groups, while Jewish are one of the groups towards which people have higher favorable feelings (although even in this case, positive attitudes are not high). It is to be highlighted that respondents believe that generally people in Spain would be very much against the opening of a mosque and would feel uncomfortable in presence of a woman wearing the veil or by the presence of Muslims in their neighborhood. Likewise, half of the respondents believed Spanish families would not like having Muslim kids in the classroom of their children. Similarly, the last survey carried out by CIS on discrimination, in 2016, showed that Roma were the group people would like less having as neighbors. Thus, only 51.6% expressed they would feel comfortable. In the case of Muslims, this percentage was of 63.1%.

On the other hand, the Eurobarometer 493⁵³ on Discrimination in the EU of 2019 asked respondents a number of questions related to Muslims, Jewish and Roma people. 65% of the respondents thought discrimination against Roma is widespread in Spain, while 40% said discrimination on religious grounds is common.

Regarding attitudes towards Muslims, the results showed that 5% thought people would feel uncomfortable with a Muslim colleague at work, 5% moderately comfortable, and 87% comfortable. Likewise, 62% would feel comfortable if their children had a love relationship with a Muslim person, while 18% would be moderately comfortable and a 16% would be uncomfortable.

These percentages were fairly similar in the case of Roma people. In addition, the Eurobarometer showed that 21% of the respondents thought people in Spain would feel uncomfortable with their children having Roma schoolmates, which is very indicative of the degree of rejection against Roma population in Spain.

Finally, the Fundamental Rights Agency (FRA) is conducting a Roma Survey⁵⁴, which includes Spain as well as other seven countries. The results are planned to be public by mid-late 2021.

In the case of the Jewish community, the Eurobarometer results are a bit better, compared to Roma and Muslims, with 3% saying they would feel uncomfortable with a Jewish colleague at work, 6% moderately

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<https://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/Survey/getSurveyDetail/instruments/SPECIAL/surveyKy/2169>

⁵¹ García Juanatey, A. and Betting Steible, “The problems of tolerance in Spain (2017)”. Available at: <https://civic-nation.org/publications/the-problems-of-tolerance-in-spain-2017/>

⁵² http://www.inclusion.gob.es/oberaxe/ficheros/documentos/Resultado_encuesta_musulmanes_11112020.pdf

⁵³ <https://ec.europa.eu/commfrontoffice/publicopinionmobile/index.cfm/Survey/getSurveyDetail/surveyKy/2251>

⁵⁴ <https://fra.europa.eu/en/project/2020/roma-survey-2020>

comfortable, and a majority of 86% comfortable. Likewise, 76% would feel comfortable if their children had a love relationship with a Jewish person, while 13% would be moderately comfortable and a 7% would be uncomfortable (compared to 16% and 15% in the case of Muslims and Roma respectively).

Changes in attitudes: the end of Spanish “exceptionalism” and the role of the media

The years 2018 and 2019 signalled the end of the so-called Spanish “exceptionalism” in terms of political parties with anti-migration views. Until then, there was no representation in the Spanish parliament of any political party with anti-immigration views, as was the case in many other European countries. This was due to a number of reasons, mainly related to the echo of Franco’s times and to the existence of a kind of political consensus not to politicize migration issues (with very few exceptions), which had a clear effect in the attitudes held by the majority of the population. This, however, might be changing now that the far-right party Vox has entered the political scene, with institutional representation, and great media attention. With Vox, that political consensus has been broken, and we are witnessing not only a politicization of migration issues in Spain, but also the emergence of a xenophobic discourse among politicians, mainly from Vox (but not only).

On the other hand, media attention to migration-related matters, and the way ethnic minorities are portrait, appears to be a key factor for the formation and evolution of attitudes, both regarding migration and other ethnic and religious minorities. Despite there are numerous deontological guides regarding how the media should report on minorities, the repetition of stereotypes and the link of Roma population and migrants to criminality, and even of Muslims with terrorism, contributes to the stigmatization of these groups. Generally, these groups are rarely given a voice and are generally mentioned only in relation to negative news such as conflict or crime. Likewise, some phenomena such as the arrival by sea or the entry through the Southern border is over-exposed in the Spanish media. Several works⁵⁵ have proven the correlation between the exposure to such messages and the negative attitudes.

Lastly, the increase in negative attitudes in these last years could also be related to the change of cycle in the migration numbers, and the media attention related to it. After a few years of reduction of arrivals in Spain, mainly due to the economic crisis, in 2018 immigration to Spain rose significantly (around 20% more arrivals than in 2017). Moreover, in 2018, irregular arrivals by sea in South Spain increased a lot (68,000 people, compared to 28,000 people in 2017 and 8,000 in 2016), with great media attention to it. While in 2019 this way of entry was similar than in 2017, and it has been low in most of 2020, by the end of 2020 arrivals to the Canary Islands have peaked again, and so has the media attention to this phenomenon that, although it receives a lot of attention in the media and in the public discourse, it is only a small part of the migration phenomenon.

Negative social manifestations towards minorities

Negative attitudes towards minorities are translated into negative social manifestations. There have not been big demonstrations against any minority in Spain. However, incidents have occurred during these years that need to be mentioned.

Firstly, several attacks against unaccompanied migrant children, or against the home shelters in which they reside, were reported during 2019 and 2020. As a way of example, in March 2019, a man armed with a machete threatened to kill the 50 minors living at a home shelter in the village of Canet de Mar. No injuries

⁵⁵ Among others: Álvarez-Gálvez, Javier (2014). «El consumo de medios informativos y las actitudes hacia los inmigrantes». *Revista Española de Investigaciones Sociológicas*, 145: 3-24. (<http://dx.doi.org/10.5477/cis/reis.145.3>); Eberl, J. et al (2018) The European media discourse on immigration and its effects: a literature review, *Annals of the International Communication Association*, 42:3, 207-223, DOI: 10.1080/23808985.2018.1497452

were reported. In the same month, a group of 25 hooded individuals assaulted another centre in the village of Castelldefels. One child had to be taken to hospital, with no major injuries reported. The day after, around 60 people gathered in front of the centre and threw stones at it. More were reported after those, and attacks intensified in the run up to the general elections, coinciding with a campaign orchestrated by Vox against unaccompanied migrant children. Among other incidents, in November 2019, several Moroccan minors were attacked by a group of 10 individuals, hours after a demonstration of more than 200 people was held against the presence of these children in the neighbourhood. In December, two profoundly serious attacks took place: a grenade was thrown over the wall of a home shelter in Madrid, with the police having to do a controlled explosion, and a fake explosive device was placed in another shelter in Murcia.

On the other hand, different shanty settlements of migrants in the South of Spain were burned down on three occasions in July 2020. Although it cannot be proven, the firemen estimated those could be intentional. Likewise, there have been cases of neighbours protesting against the opening of a mosque, for example in Lorca, where more than a thousand people signed a petition against the opening.

Also in 2020, several incidents took place, related to Covid-19. At the beginning of the year, cases of insults, bullying and online hate against people of Asian ethnicity⁵⁶, being blamed by the Covid-19, were reported. Also, it was reported that several messages circulated widely through WhatsApp blaming Roma people for not abiding the rules and spreading the virus⁵⁷. In July, dozens of people in a village of Southern Spain shouted racist insults against six migrant people that had just arrived in Spain by sea, and demanded them to leave the village, alleging that they could have Covid-19 (even though they had a test indicating otherwise). The six people had to be transferred to another shelter in a different village.

Other types of negative social manifestations occur in the form of discrimination acts. A profoundly serious and common one (but not the only one) is the difficulty in renting housing because of ethnic origin. Thus, a recent report⁵⁸ published showed how 72% of real estate agencies accepted to directly deny renting to migrants and foreign-looking people, and in other cases the agencies (and owners) demand additional requirements. Likewise, the Roma population also faces these barriers to access to housing⁵⁹. Also, the UN Special Rapporteur on extreme poverty and human rights stated in his visit to Spain at the beginning of 2020 that there exists *de facto* school segregation of Roma children⁶⁰.

Finally, online hate speech targeting migrants, minorities and ethnic groups continues to be a huge problem. Social media and online fora continue to be a field to spread hate against Roma people, as reported one more year by Fundación Secretariado Gitano in their latest report⁶¹, as well as against Muslims, as reported in the Annual report of the Citizen's Platform against Islamophobia of 2017⁶² (no further updates of the report have been published)

Manifestations on the part of ethnic and religious groups

There have not been any radical manifestations by ethnic or religious groups in Spain.

Instead, there have been peaceful demonstrations claiming for an end to racism, focused on institutional racism. Since 2017, an antiracist demonstration is held in the main cities of Spain in the month of November

⁵⁶ https://www.eldiario.es/desalambre/activistas-denuncian-comunidad-asiatica-coronavirus_1_1152374.html

⁵⁷ https://www.eldiario.es/desalambre/gitanos-bulos-racistas_1_5894352.html

⁵⁸ <https://www.provienda.org/wp-content/uploads/Se-alquila.-Racismo-y-xenofobia-en-el-mercado-del-alquiler.pdf>

⁵⁹ https://www.gitanos.org/upload/79/59/Informe_de_discriminacio_769_n_FSG_2019_ingles_.pdf

⁶⁰ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25524&LangID=E>

⁶¹ Ibid

⁶² <http://www.observatorioislamofobia.org/wp-content/uploads/2018/03/Informe-Islamofobia-en-Espa%C3%B1a.-PCCI-Informe-Anual-2018.pdf>

every year. This 2020, also, several demonstrations were held as part of the Black Lives Matter movement following the murder of Lloyd Floyd in June, despite the Covid-19 restrictions. In Barcelona only, more than 2,000 people gathered demanding an end to racial discrimination and police abuse. Likewise, in July 2020, several demonstrations demanding the regularization of irregular migrants were held in several cities across Spain. All those demonstrations were called by migrant associations and ethnic groups.

4. Activities of right-wing radical groups and parties

Far-right political parties

Since the 2017 report, the biggest change in presence and activities of the far-right in Spain has been the end of the so-called Spanish “exceptionalism”, referred to the lack of representation of far-right political parties in the national parliament. As explained above, this ended in 2018 with the entry of Vox in the regional parliament of Andalusia in December 2018 and in the national parliament (*Congreso de los Diputados*) in April and November 2019. With that, the far-right has become the third political force in Spain, showing an enormous capacity to attract media attention, set the agenda and frame the public debate.

Vox was founded in 2013, following a split from the conservative Popular Party. Its ideology can be defined mainly as nativist, nationalist, and economically neoliberal⁶³. One of Vox features is that it uses social media networks with great ease and flexibility and uses them to communicate their ideology, which is still unfolding, directly with their followers. This is key to understand their success, as this presence in social media has allowed them to easily bring up polarizing topics that attract media attention⁶⁴.

Another minor far-right party, España 2000, retains some seats in local councils in the region of Madrid, but it has limited reach and appears to be in decline. There are other minor neo-fascist or far-right parties in Spain without any representation, such as Democracia Nacional, Falange Española de las JONS, Falange Auténtica, Alternativa Española or Democracia y Libertad Popular. In the last years, some others came to an end, such as Plataforma Per Catalunya (to integrate themselves into Vox) or Movimiento Social Republicano.

Neo-fascist social movements

In the last years, the best-known neo-fascist organization has been Hogar Social Madrid, inspired in the Italian neo-fascist organization Casa Pound. In 2016, they organized a demonstration against immigration in Madrid, of around 1,000 people. Lately, they appear to be losing supporters and are being replaced by another organization called Bastion Frontal. There are many other local neo-fascist groups across Spain, such as Iberia Cruor, Málaga 1487 or Acción Social. All these organizations work mainly at the local level, in neighborhoods, and focus on social issues to attract support. For example, many of them focus on social activities such as distributing food to white Spanish families in need.

Attention is to be paid in the next years as many of them are establishing links and coordinating their organizations. In July 2020, the platform Hacer Nación, which brings together many of those organizations, was launched, as an alternative to Vox’s neoliberalism.⁶⁵

Public activities of far-right radical groups

⁶³ Ferreira, C. (2019). Vox como representante de la derecha radical en España: un estudio sobre su ideología. *Revista Española de Ciencia Política*, 51, 73-98. Doi: <https://doi.org/10.21308/recp.51.03>

⁶⁴ <https://xaviercasals.wordpress.com/2020/10/10/como-definir-a-vox-cinco-claves-interpretativas/>

⁶⁵ <https://www.lamarea.com/2020/11/20/movimientos-sociales-neofascistas-la-extrema-derecha-mas-alla-de-vox/>

While, generally, public manifestations of the right-wing radical groups are not common in Spain, the Catalan conflict and the (related) rise of Vox⁶⁶ appear to have emboldened them. In the years 2018 to 2020, there have been several public shows at different times.

Several acts and protests were staged during 2018 and 2019 by radical movements and parties (among others, Vox) against the exhumation of the dictator Franco, whose remains were removed, more than 40 years after his death and the end of the dictatorship, from the mausoleum he had built. Hundreds gathered there to protest in 2018 when the decision was taken by the Spanish government, and far-right sympathizers gathered also at the cemetery the day of the removal in October 2019 (including Antonio Tejero, who instigated the failed coup d'état in 1981). During these gatherings, the glorification of the Francoist regime was common.

As indicated in the 2017 report, the actions of neofascists groups have become more visible since the bid for independence in Catalonia. In Barcelona, during disorders that took place in October 2019 after a court ruling against the leaders of the Catalan independence movement, there were some encounters between independence supporters and far-right groups that had to be disbanded by the police. A young man was savagely beaten by far-right supporters.

In October 2020, around one thousand people held a demonstration against the unaccompanied migrant children who lived in the neighborhood of San Blas in Madrid at a shelter home. During the demonstration, the Nazi salute was common and there were banners of several neo-Nazi groups.

Also, in October 2020, demonstrations against the Spanish government and the restrictions imposed for the Covid-19, that ended in disorders in several cities, appear to have been organized and instigated by far-right groups.

5. Activities of radical Islamism in Spain

Ideological trends and forms of Radical Islam in Spain

Islamist radicalism is understood to be an ideology, that sees itself as political rather than just religious. As such, it demands the implementation of the sharia at state level, and the consideration of the Muslim community as a political entity. All this would be enshrined in the Caliphate⁶⁷. The most extended trend of radical Islamism in Spain is Salafism⁶⁸. It advocates a literal interpretation of Islam, calls for an Islamic order, and rejects any modernization of Islam. The region where Salafism is more present is Catalonia. There, it is estimated that it is followed by around 5% of the Muslim population⁶⁹. Salafism does not equate to violent extremism, and only a minor “branch” of it, the violent jihadism, defends violence to achieve its aims.⁷⁰

The threat of violent jihadism started in Spain in the nineties, when Al Qaeda established a cell in Spain. While it was dismantled in 2001, some of its members continued to operate in the country and organized the Madrid bombings in 2004, killing 191 people. From 1995 to the Madrid attack, around 100 individuals

⁶⁶ The bid for independence in Catalonia appears to be one of the main explanations for the sharp rise of Vox in 2018 and 2019.

⁶⁷ Rogelio Alonso (2012) The Spread of Radical Islam in Spain: Challenges Ahead, *Studies in Conflict & Terrorism*, 35:6, 471-491, DOI: 10.1080/1057610X.2012.675547

⁶⁸ https://www.eldiario.es/internacional/salafistas-yihadistas-vulnerabilidad-identitaria-inmigrantes_128_1509425.html

⁶⁹ https://elpais.com/ccaa/2016/06/18/catalunya/1466267306_699909.html

⁷⁰ https://novact.org/wp-content/uploads/2020/01/Diagnosi-d%E2%80%99Extremismes-Violents-a-Catalunya-i-Recomanacions-per-la-seva-Prevenci%C3%B3_10.pdf

were detained by the police. In the next decades, this number increased to 470 individuals, from 2004 to 2012. Most of them were born outside Spain. This has changed as of 2013. Since then, in the context of the conflicts in Syria and Iraq and the Islamic State activities, half of the radicalised individuals are born or raised in Spain⁷¹. This was the case of the perpetrators of the Barcelona and Cambrils attacks in 2017, in which 16 people were killed. In the last years, the number of radicalized individuals has increased, to an estimation of around 5,000 individuals⁷².

The radicalization process in Spain

There is no consensus on the drivers to radicalization. According to the expert Moussa Bourekba, the following factors are generally seen in the radicalization processes: a grievance (such as perceived or real discrimination), the need to be part of a group, the ideology that connects those resentments or grievances to a more global framework, and the role of the “recruiters” that convince the individual to carry out activities of violent extremism. Furthermore, the radicalization process usually involves a process of isolation from family, friends, etc.⁷³

In addition, the radicalization of individuals in Spain appears to happen mostly in groups. Only a minority self-radicalize. In general, the process is done in a mixed environment of online and offline, and only a minority do so completely online. According to a research conducted in Spain by the think tank Real Instituto Elcano, in most cases there is a direct contact with a so-called “radicalization agent”, key in the radicalization process. This can be a charismatic individual that often has been involved already in some way in jihadist activities, and generally, there are previous social ties with that agent, as in many cases is family, friend and/or neighbor⁷⁴.

Radicalization takes place mostly in private spaces, and most times outside the mosque⁷⁵ (even in the cases where the imam is the radicalization agent). As a result, there have been no cases in Spain of closure of mosques. Instead, there have been some cases where an imam that has been found to pose a danger to national security has been ousted from Spain (5 cases in 2018, 4 in 2019). Prisons also have a role in the process, as one of the radicalizations “spaces”. Many of the radicalized individuals have a history of drug trafficking and petty crime.

Radical Islamist organizations in Spain

Violent extremism in Spain is carried out mainly by small cells with no direct links to organizations. In this sense, there is no public list of banned terrorist and extremist organisations. The Guardia Civil (one of the national police forces) refers to the EU list, which is regularly updated, and contains names of individuals as well as organisations. Radicalised individuals have, however, jihadist organisations of reference (one or

⁷¹ Reinares, F. Avatares del terrorismo yihadista en España. http://www.realinstitutoelcano.org/wps/portal/rielcano_es/contenido?WCM_GLOBAL_CONTEXT=/elcano/elcano_es/zonas_es/terrorismo+internacional/reinares-avatares-terrorismo-yihadista-espana

⁷² Ballesteros, A. Counter-Terrorism Efforts in Spain. Counter Terrorist Trends and Analyses , Vol. 10, No. 11 (November 2018), pp. 9-13.

⁷³ Interview with Moussa Bourekba (13/11/2020), available at: https://cadenaser.com/programa/2020/11/13/hora_25/1605285610_908238.html

⁷⁴ “Dos factores que explican la radicalización yihadista en España”. Available at: http://www.realinstitutoelcano.org/wps/portal/rielcano_es/contenido?WCM_GLOBAL_CONTEXT=/elcano/elcano_es/zonas_es/terrorismo+internacional/ari62-2017-reinares-garciacalvo-vicente-dos-factores-explican-radicalizacion-yihadista-espana

⁷⁵ <http://www.euro-islam.info/2013/11/28/radical-islam-spain-summary-real-instituto-elcano-report/>

more). Research⁷⁶ on terrorists in Spain shows that until 2011, the main organization of reference in Spain was Al Qaeda, while from 2012 to 2018, they were mainly IS and to a lesser extent Al-Nusra Front.

While they do not pose a threat to public stability in Spain, they of course pose a threat in terms of public security in the cases where they engage in illegal activities, mainly, violent jihadism. The influence of these type of radicalism can be considered to be twofold. On the one hand, it affects the individuals (a minority) that falls into its trap, as it isolates them and prevents them to integrate in any way into Spanish society and, in fact, into the Muslim community itself. On the other hand, of course, it has impacted society greatly when terrorist attacks have occurred. It is to be noted that in both terrorist attacks occurred in Spain (in 2004 and 2017) the reaction of the public authorities as well as society at large has been that of rejecting islamophobia.

6. Hate crime

While data collection has improved a lot in the last years, underreporting of hate crimes remains an issue in Spain. This makes it difficult to have a full picture. In fact, experts⁷⁷ estimate that most hate crimes are not reported, and therefore are not included in the official data.

Since 2013, the Ministry of Interior (Home Affairs) delivers a yearly report with official data on hate crimes reported to law enforcement authorities. This was an important step towards ensuring a higher rate of reporting. Since 2013, the total number of crimes reported has steadily increased: from 1,172 total crimes reported in 2013⁷⁸, to 1,706 in 2019. In 2018⁷⁹, the total number of hate crimes reported amounted to 1,598 (compared to 1,419 in the previous year). In 2019⁸⁰, the number increased to 1,706 hate crimes. There is still no data available for the year 2020.

In terms of the evolution by type of hate crime, antisemitism remains the lowest type having crimes reported (9 in 2018 and 5 in 2019), while racism and xenophobia are one of the highest (426 in 2018 and 515 in 2019). Crimes related to religion⁸¹ amounted to 69 and 66 in 2018 and 2019, respectively. It is to be highlighted that, in 2019, the category of anti- Gypsyism was included for the first time (14 hate crimes reported), which was a positive and welcome step.

In addition to the official statistics, some civil society organizations such as SOS Racism or Movimiento Contra la Intolerancia also collect data. This organization estimates that there are around 4,000 hate crimes and incidents related to hate each year in Spain⁸².

Vandalism in cemeteries, attacks on religious buildings

A number of incidents, mainly graffiti, took place in Spain during 2018, 2019 and 2020. In this period, at least 6 incidents are known of antisemitic graffiti in the walls of synagogues or monuments to Holocaust victims. Likewise, at least five anti-Muslim graffiti are reported in the walls of mosques in 2018 and

⁷⁶ <http://www.realinstitutoelcano.org/wps/wcm/connect/7c5ffe5f-3455-4d99-b5ee-bf24da041511/yihadismo-yihadistas-espana-quince-anos-despues-11-M.pdf?MOD=AJPERES&CACHEID=7c5ffe5f-3455-4d99-b5ee-bf24da041511>

⁷⁷ <https://civio.es/2019/07/04/el-odio-que-no-se-cuenta/>

⁷⁸ <http://www.interior.gob.es/documents/642012/3479677/Informe+sobre+los+delitos+de+odio+en+Espa%C3%B1a+2013.pdf/6f10f526-80f7-47a0-911b-d27c61c6cf40>

⁷⁹ <http://www.interior.gob.es/documents/642012/3479677/informe+2018/ab86b6d9-090b-465b-bd14-cfcafccdfcbe>

⁸⁰ <http://www.interior.gob.es/documents/642012/3479677/informe+evolucion+2019/631ce020-f9d0-4feb-901c-c3ee0a777896>

⁸¹ Note that there are no segregated data of anti-Muslim hate crimes

⁸² <http://www.informeraxen.es/wp-content/uploads/2019/03/RAXEN-ESPECIAL-2018.pdf>

2019⁸³. Other organizations report a higher number of vandalism actions (Spanish Muslim Association for Human Rights, for example, reports 4 incidents in 2019 in mosques and 10 more in other public spaces)

Inter-ethnic clashes. There have not been any inter-ethnic clashes in Spain.

Cases of violence on racial, ethnic, religious grounds, attacks on human rights defenders and anti-fascists

Cases of violence on these grounds have been abundant in Spain during 2018, 2019 and 2020. As explained above, the cases reported are just the tip of the iceberg, although some improvement has been made. There are several NGOs reporting incidents and violent attacks (regardless of whether they are reported to the authorities or not). Thus, in 2018 and 2019, 20 and 25 violent attacks against people (respectively) on the grounds of racism and xenophobia are reported, as well as 6 and 4 (also in those years) on the grounds of anti-Muslim bias⁸⁴.

Hate-motivated murders. According to the project *Crímenes de Odio: Memoria de 25 años de olvido*⁸⁵, there have been 101 hate-motivated murders in Spain from 1990 to 2000. Out of these, racism and xenophobia are the most common motivation. In 2018 there were two cases and in 2019 there were five.

Terrorist attacks based on radical nationalism and religious fanaticism. There have not been any terrorist attacks in Spain since the 2017 attacks in Barcelona and Cambrils.

7. Conclusions for the period 2018-2020

In the period reviewed in this report (2018 to 2020), two events have occurred that will have a huge impact in the state of tolerance -or intolerance- in Spain: the rise of the far-right party Vox, and the Covid-19 pandemic.

Firstly, the rise of Vox, the first far-right party to have representation in the Spanish Parliament in the last decades, signals a change in Spain. The country, that had managed to remain one of the few countries in Europa with no significant far-right party, has now ceased to be an exception in this regard. The consensus that existed until 2018 among most politicians not to politicise the immigration phenomenon is now ended. With their institutional representation comes a degree of legitimisation of their discourse and ideology, increased media attention, and funding. While it is still too early to assess whether the attitudes towards migration have changed, and not enough data is available yet, it will most likely have a negative impact. While the general attitudes towards migration and other minorities are generally positive (particularly compared to other European countries), in the current context, it is likely that xenophobic attitudes will rise, particularly those against Muslims⁸⁶.

Related to this, and for the first time since the end of the dictatorship in Spain, the radical far-right feels legitimised and emboldened by Vox discourse. Attention needs to be paid to the growing coordination of far-right movements in Spain. Likewise, if the presence and actions of the far-right increased, this could also contribute to the radicalization of Islamism in Spain. The two types of radicalisation are related, one feeding back into the other⁸⁷.

⁸³ According to Movimiento Contra la Intolerancia, an NGO that collects data on hate incidents and crimes.

⁸⁴ <https://hatecrime.osce.org/spain>

⁸⁵ <https://crimenesdeodio.info/es/>

⁸⁶ Rinken, S. (2019). El peligro de la xenofobia. El fenómeno migratorio en España. 221-227.

⁸⁷ Ibid.

Secondly, the Covid-19 will no doubt have a long-lasting impact in Spain. Politically, it has meant the delay in legislative measures that could have had a big impact, such as the proposed Comprehensive Bill for Equal Treatment and Non-discrimination, that would end the current fragmentation in the anti-discrimination legislation, or a potential change in the Foreigners Law, as had announced the government before the Covid-19 crisis. It will be interesting to see whether such fundamental legislation finally sees the light in Spain in the coming years. While the difficulties in forming a coalition government in 2019 seemed to indicate that it would be difficult to have a stable government, the general budget for 2021 has just been approved in the Spanish Parliament, sending signs that the current government might be stronger than initially thought, and might last for three more years until elections are due. If this is so, we could see important legislative measures taken, and it could also be an opportunity to remedy some of the shortcomings of the current framework described above and highlighted repeatedly by ECRI or the UN Rapporteurs, as well as many civil society organisations in Spain.

On the other hand, the economic and social impact the Covid-19 crisis will have in Spain will be visible in the coming years. The prospects are daunting, and the long-term impact on the wellbeing of minorities can be devastating. The most vulnerable population will be the most affected by the crisis. Furthermore, it is true that the economic crisis of 2008-2014, that hit Spain very hard, did not seem to have a major impact on attitudes towards migration, although it certainly had an impact in terms of rights such as the limitations in the free access to health care for irregular migrants in 2012. However, at that time there was a degree of political consensus not to use migration politically. This is not so now, with a far-right party in the Spanish Parliament, successfully setting the agenda and the terms of the debate on many issues, and the conservative Popular Party fighting not to lose more voters to them.

8. Recommendations

Several shortcomings and issues in the anti-discrimination and equality framework in Spain have been highlighted in this report. While Spain has made fundamental steps in the last decades towards equality and against discrimination and hate, there certainly is room for improvement. The UN, ECRI, and other international organisations and committees regularly issue recommendations to Spain in this regard.

General recommendations for joining international agreements and conventions

- Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families⁸⁸.

General recommendations for adjusting the legal framework

- Enact a comprehensive equality and non-discrimination legislation that applies also to non-citizens.
- Amend article 22.4 of the Spanish Criminal Code to include anti-Gypsyism as an aggravating circumstance for any offence.
- Amend the Spanish Criminal Code to ensure compliance with ECRI's General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination⁸⁹. The most important aspects are to add the grounds of colour, language, citizenship and gender identity in all relevant articles, add the support for groups that promote racism as a criminal offence, and

⁸⁸ It is to be noted that the Convention has not been ratified year by any EU country.

⁸⁹ <https://rm.coe.int/ecri-general-policy-recommendation-no-7-revised-on-national-legislatio/16808b5aae>

criminalise all racial discrimination in the exercise of a public office or occupation (for example in the exercise of police activities such as identity checks).

- Clarify the concept of “ideology” in article 510 of the Criminal Code as a ground of discrimination.

General recommendations for executive authorities in the field of law enforcement, public safety and human rights observance

- Include questions about ethnic affiliation in population census, to obtain disaggregated data. This is needed in order to have reliable information for implementing policies and measures that are effective.
- Continue strengthening the Council for the Elimination of Racial and Ethnic Discrimination and ensure its independence. Alternatively, set up an independent equality authority.
- Work towards increasing the reporting of hate crime and hate incidents. In this sense, continue delivering training to law enforcement agents and other relevant actors, and spreading awareness on the anti-discrimination and hate crime legislation, measures, and resources available.
- End the practice of racial and ethnic profiling in identity checks by the law enforcement authorities and improve the criteria for conducting identity checks.
- Eliminate detention centres for migrants and asylum seekers. When operating, ensure that the conditions and resources are improved, and the regulations are complied with.
- Eliminate the practice of age-assessment tests to determine the age of unaccompanied migrant children. Develop a protocol on the methods and procedures to determine the age when necessary that are fully compliant with human rights and the rights of the child.
- Cease the pushbacks at the Southern border of Spain and ensure compliance with human rights standards.