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### **Author**

Durán Ruiz, Francisco J.

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## **The Relationship between Legal Status, Rights and the Social Integration of the Immigrants**

**By** Francisco J. Durán Ruiz  
Universidad de Granada

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**University of California-San Diego  
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## The Relationship between Legal Status, Rights, and the Social Integration of the Immigrants

by Francisco J. Durán Ruiz

### **Introducing Spain: the change from sending to recipient country and the change from foreign to immigration policy**

Does a real immigration policy exist in Spain? Since 1985 Spain has regulated the situation of immigration in its territory but it has never had a social or political preoccupation concern about this phenomenon. On the contrary, the different Governments and authorities used to pay much attention on the numerous Spanish emigrants abroad and their return to Spain than in the migratory phenomenon.

However, after Spain's entry into the European Community and the beginning of economic growth, immigration experienced a substantial increase in mid 1980s and 90s, raising the number of foreign residents in Spain from 241,971 in 1985 to 499,773 in 1995. In the last five years the Spanish change from emigration to one of immigration has been consolidated, reaching 1.301.342 foreign residents in June 2002 (see Table 1).

**TABLE 1: LEGAL RESIDENT FOREIGN-BORN POPULATION**

Year	Legal resident Foreign-born population	% Increase
1985-1995	241,971-499,773	106.54
1996	538,984	7.40
1997	609,813	13.40
1998	719,647	18.01
1999	801,329	11.35
2000	895,720	11.78
2001	1,109,160	23.81
June 30, 2002	1.301.342	17.34

Source: Delegación del Gobierno para la Extranjería y la Inmigración. Balance 2001: 32. Ministerio del Interior; Balance 2002: 10.

This change has been not only quantitative but also qualitative. Before the mid 1990s, almost 60 percent of foreign residents were mostly from European Community countries, but after that date that percentage was significantly reducing in favor of nationals of third countries (non EU-citizens, see Table 2), mainly from North Africa (especially Morocco), Latin America (especially Ecuador, Colombia, and Peru), Asia

(mostly from China) and recently from East Europe (Bulgaria and Romania)<sup>1</sup>. Through this change, Spain in the nineties definitively became an immigration country (Arango: 2000, Cachón: 2002)

**TABLE 2: LEGAL RESIDENT FOREIGN-BORN POPULATION BY THEIR TYPE OF REGIME**

YEARS	TOTAL	EU citizens Regime * **	Percentage over total residents	General Regime (Third countries)	Percentage over total residents
1996.....	538.984	319.327	59.25 %	219.657	40.75 %
1997.....	609.813	332.558	54.53 %	277.255	45.47 %
1998.....	719.647	380.927	52.93 %	338.720	47.07 %
1999.....	801.329	418.374	52.21 %	382.955	47.70 %
2000.....	895.720	419.874	46.88 %	475.846	53.12 %
2001.....	1.109.060	449.881	40.56 %	659.179	59.44 %
2002.....	1.301.342	461.628	35.47%	839.714	64.53%

\* EU-citizens and their families are not limited by the Immigration Law. They have the right to enter, reside and work in Spain in the same conditions as Spaniards.

\*\* Natives from Third countries are under EU citizens regime too if they are spouse, descendant or ascendant of a EU citizen.

Source: Delegación del Gobierno para la Extranjería y la Inmigración, Ministerio del Interior. Anuario de Extranjería 2000, p. 29 y Balance 2001, p. 41; for 2002, Balance 2002: 7.

The Law 7/1985, on the rights and freedoms of the foreigners in Spain [*Ley sobre derechos y libertades de los extranjeros en España*], signified the inclusion of immigration into the political agenda of the Socialist controlled Executive. This Law was the first to unify the previously dispersed regulations on the immigration issue. The main character of this Law was its restrictive orientation, which contrasted the scarce percentage of foreign-born residents in Spain –0.6 percent–, especially when compared to countries such as Germany –8.2 percent– or France –6.4 percent–. The European

<sup>1</sup> On June, 2002, the countries which had more legal residents in Spain were: Morocco: 236,174; Ecuador: 132,628; Colombia: 81,709; China: 42,578; Romania: 38,855; Peru: 37,863; 7- Dominican Republic: 31,584; Argentina: 26,248; Cuba: 23,605; Algeria: 18,380. Source: Balance 2002: 7, Delegación del Gobierno para la Extranjería y la Inmigración.

situation and the recent signing of the Schengen Accord<sup>2</sup> –which suppressed the internal borders and established common external frontiers among the signing countries– proactively influenced the national government’s behaviour especially because of Spanish entry into the European Community in 1986.

The “Foreign Policy” established by the 1985 immigration law could not cope with the continued waves of immigrants during the 1990’s. The large amount of irregular immigrants caused by the hard requirements to enter and reside in Spain, led the Government to use decongestion instruments (*mecanismos de descongestión*), alternating extraordinary legalization processes –in 1985, 1991, 1996, 2000 and 2001– with labor quotas since 1993 to the present<sup>3</sup>.

Integration actions were not expressed within the legislation, but institutional plans conceived by those entities responsible for services which affected the integration of immigrants (Casey, 1998). The main measures were taken at state level since actions carried out at other governmental levels did not have material or formal coverage; in fact, during the nineties the proliferation of pro-immigrant organizations<sup>4</sup> supposed a form of indirect governmental intervention through their financing.

As a regulated parallel system the Ministry of Social Affairs created an Inter-ministerial Immigration Commission (*Comisión Interministerial de Extranjería*) charged with co-ordinating the different ministries with authority in matters of integration, and 2<sup>nd</sup> December 1994, published the Plan for social Integration of Immigrants (PISI), the principle measures of which were the creation in 1995 of several institutions which remain in place today, the Forum for Social Integration of Immigrants (*Foro para la integración de los Inmigrantes*) –an organism where immigrants were represented– and the Permanent Immigration Observatory (*Observatorio Permanente de la Inmigración*), an organism for information and study on migratory issues.

The Once European Union started to develop a common migratory policy with the Treaty of Amsterdam in 1997 and dismantled all control on its internal borders, the

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<sup>2</sup> Agreement about the gradual elimination of controls on their internal borders approved on June 14, 1985 by Germany, France, Belgium, Holland and Luxembourg. Nowadays, this agreement is part of the European Union Treaties, and thirteen EU countries plus Norway and Island are part of it (UK and Ireland take part only in several aspects of the agreement). Spain signed it on June 25, 1991.

<sup>3</sup> During the years in which regularization processes were made, they were the way to cover the need of labor-hand, so there were no labour quotas those years.

<sup>4</sup> Nowadays there are more than 11.000 organizations, including associations and foundations in Spain. 13 percent of them have the immigrants’ attention among their activities, according to the Non Governmental Organizations List made by the Fundación Tomillo for the Labour and Social Affaires Ministry.

EU focused on the Euro-Mediterranean area, in which Spain was considered the border between Europe and the emigration countries of Africa. In Amsterdam the agreement of Schengen went from being an International Agreement to forming part of the European Union Treaty, and breaking with its new authority on this issue, the European Council continued with the harmonization of migratory policy of its member states upon the basis of the difference established between EU citizens, who have the right to circulate, reside and work freely without limitations within EU internal borders, and non EU citizens, who must fulfil requirements in order to cross the EU external frontiers (visas, economic means, etc), and obtain permits to be able to reside and/or work in each of the European Union countries.

Taking as a starting point Common European policy and the enormous increase in migratory flows, the Immigration Law 4/2000 (coloq. *Ley de Extranjería*), is at the origins of the immigration policy in Spain. The difference with immigration policy is that foreign policy conceives immigration to be a provisional phenomenon, from a focal point of public security through mechanisms of co-action and control based upon administrative expulsion, where one of the ministries –the Ministry of the Interior– plays a key role, and the documented immigrant has a complementary working character. In contrast, immigration policy perceives migrations as structural deeds with permanent characteristics, tackling the question from the participation of diverse implicated social actors, in search of an integratory cohabitation where the immigrant is just another citizen, subject to the standard civil and criminal sanctions (Subirats, 2001).

The Law 4/2000 was approved by all political parties except one in the Government, the Popular Party, who desired a more restrictive version. The Law was considered modern and open-minded, a new regulation which reformed and improved the personal and civic status of the foreigners in Spain. However, shortly after, when the Popular Party won again general election with absolute majority in the Parliament and made changes in the Immigration Law –this time without the necessity of other political parties support. The result was the recent Law 8/2000, called the “counter-reformation” of the Immigration Law because it was a tougher version, like the one in 1985. After the new Law it is observed a progressive hardening of the Spanish migratory policy, not only in the legislative level but also in some other aspects (Aguelo Navarro 2002).

The reformation effected by the 8/2000 Law was based on, according to its stated purpose, the adaptation to the European Union legislation and the necessity to

elaborate a global migratory policy, which coordinated preventive cooperation with sending countries, control of migratory flows and the social integration of immigrants.

### **Immigration policy bases: prevention and control on migratory flows**

Regarding the first base of Spanish migratory policy, the preventive dimension, as cooperation with sending countries, is understood in the sense of controlling the immigration flows from the countries of origin. Since the year 2001, Spain has signed agreements with some sending countries. The first one was signed with Colombia<sup>5</sup> and the following with Ecuador<sup>6</sup>, Morocco<sup>7</sup>, Dominican Republic<sup>8</sup>, Romania<sup>9</sup> and Poland<sup>10</sup>. Through these agreements the quota of foreign workers which Spain needs each year will be reached both for temporary and steady employment. In this way, these foreigners are guaranteed legal entry with full rights, placing them in a much more favourable initial situation regarding their integration into Spanish society.

The main goal of the new Immigration Law 8/2000 is to encourage and favor legal entry and residence in Spain and to avoid and control illegal immigration, fighting against immigrant smuggling. The Law has hardened the conditions to enter and reside on Spanish territory. Regarding this control dimension, the Visa requirement and its regulation has been an important instrument. Since 1995 the European Union regulated Visas for short stays and determined the countries whose nationals would need a Visa to enter the European Union for less than three months<sup>11</sup>.

This unique list of countries posed many problems for Spain, because Spain had to denounce many Visa elimination agreements with Latin American countries and had to abandon, in a certain way, the tight links that it had maintained with those countries historically bound to Spain. The first countries that were required to ask for visas in

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<sup>5</sup> Agreement on the regulation and ordination of labour migratory flows, signed in Madrid on May 21, 2001 (BOE 4-7-2001).

<sup>6</sup> Agreement on the regulation and ordination of migratory flows, signed in Madrid on May 29, 2001 (BOE 10-07-2001).

<sup>7</sup> Accord on labour-hand signed in Madrid on July 25, 2001 (BOE 20-9-2001).

<sup>8</sup> Agreement on the regulation and ordination of migratory flows, signed in Madrid on December 17, 2001 (BOE 5-2-2002).

<sup>9</sup> Agreement on the regulation and ordination of labour migratory flows, signed in Madrid on January 23, 2002.

<sup>10</sup> Agreement on the regulation and ordination of migratory flows between both States, signed in Varsovia on May 21, 2002 (BOE 20-9-2002).

<sup>11</sup> This is regulated in the Council Rule 2317/95, which is brought up to date every two years approximately.

1995 were Peru and the Dominican Republic, and with the Community Regulations of 2001, Spain has also started to demand Visa from Colombians.

The most common way for irregular immigrants to enter Spain is through stays of less than three months, by posing as tourists<sup>12</sup>. Once the legal stay has finished, the foreigners do not return to their countries. This illegal stay in Spain is very difficult to control, mainly for those who don't need a Visa for short stays. For this reason Spain has reported its will to demand Visa to more Latin American countries, such as Ecuador and Argentina<sup>13</sup>. This confirms the progressive return towards a more and more restrictive immigration policy.

### **The new perspective: social integration of immigrants in the Spanish immigration policy**

Regarding the third goal of the Spanish migratory policy, since 1999, Spain needed to develop a well-defined and comprehensive policy to integrate the immigrants for two reasons: the first serious cases of anti-immigrant violence and the new common migratory policy established by the European Union from the Tampere European Council, which included the goal of “fair treatment of third country nationals”<sup>14</sup>.

The problem was what to do with irregular immigrants already in Spain. According to the reasons given by the Spanish Government to reform the Law 4/2000, the rights granted to irregular immigrants had provoked a ‘pull effect’ (*efecto llamada*) and massive waves of clandestine immigrants. For this reason, when the new Law refers to integration, it only mentions the integration of ‘resident foreigners’. After the four consecutive “extraordinary” regularization processes carried out between 2000 and 2001, which failed their attempt to reduce to zero the illegal immigration statistics for a better control of the migratory flows in the future (De Bruycker 2001: 8), the Spanish Government decided to enforce the new Law, and has repeatedly acknowledged that

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<sup>12</sup> This way to enter Spain, used mainly by Latin American immigrants exceeds by far the traditional method used by immigrants from North Africa or from the Sub-Saharan Africa which enter by sea, in boats called “*pateras*”. In 2001, between January and November, 72.811 Ecuadorians entered Spain as tourists, according to *Dirección General de Migración* of the Ecuadorian Police. The Hispanic-Ecuadorian association Rumiñahui considers that 98% were irregular immigrants.

<sup>13</sup> “El Gobierno pretende ampliar el número de países a los que se le pide visado de entrada”, *La Estrella digital*, www.estrelladigital.es, June 7, 2002. In fact, on March 6, 2003, the European Union –Council Rule nº 453/2003- has approved the last updating of the list of countries whose nationals are asked for entry visa to include Ecuador, as the Ecuadorian is the immigrant community which has experienced a higher increase within the last years in Spain.

<sup>14</sup> Presidency Conclusions, nº 18. Tampere European Council, October 15 and 16, 1999.



there will not be more legalization processes. The current government alternative for irregular immigrants is trying their repatriation, opting for a policy of massive deportations. This is also the trend in the rest of the European Union, which has elaborated a Green Paper related to the European policy to return irregular immigrants<sup>15</sup>.

In order to expel the undocumented, Spain would have to overcome not only legal obstacles, such as the no existence of readmission agreements with many of the immigrants' origin countries, but also technical and administrative problems. The number of deportations can confirm what above mentioned. The deportation orders are proportionally scarce if compared to the number of irregular immigrants (estimated between 250,000 and 300,000) and the police only execute a reduced number of them. Almost 12,976 deportation orders were resolved in 2001 but only 3,817 irregular immigrants were really expelled<sup>16</sup>. A migratory policy based basically on expulsions and not on the immigrant integration has no future. The compared experience shows that migratory flows depend on the origin country situation and the real existence of employment possibilities in the destination country, but never on the restrictions established (Rodríguez Piñero 2002: 16).

In this context, and taking into account the immigrants' intentions to remain in Spain<sup>17</sup>, the integration factor holds even more importance. Once that those nationals of a third country are in Spanish land, legal or illegally, the best option to avoid social conflicts is to grant them a series of rights and freedoms so that they can earn a living in a legal way. Being realistic, this option is less expensive, from an economic point of view, than a massive repatriation<sup>18</sup>.

The option to favor the immigrant social integration has always obtained a better reception in Spanish society than the option to an immigrant return to the origin

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<sup>15</sup> This Green Paper, COM (2002) 175 Final, was presented by the European Union Commission April 10, 2002. This document defines the illegal resident as 'any person that does not fulfill the requirements to enter, stay or obtain residency in the territory of any of the State members of the European Union'. This document foresees not only the expulsion, but also the voluntary repatriation and seeks to implement this last repatriation as it supposes less administrative and economic efforts.

<sup>16</sup> According to the data of the *Grupo de Estudios Sobre los Derechos de los Inmigrantes (GESDI)*, the number of executed expulsions in Spain reached 5,525 in 1998 and 5,232 in 1999, when there was a total number of expulsion expedients opened of 18,349 in 1998 and 19,667 in 1999.

<sup>17</sup> 60.63 percent of immigrants have an average expectancy to remain in Spain 10 or more years; 10.36 percent at least 5 years and only a 2.01 percent want to remain only one year (*IMERSO 1999:8 Report on the social integration of those immigrants who have collaborated in programs of social protection*).

<sup>18</sup> The expulsion of a Chinese citizen can roughly cost 6000 \$, taking into account that, together with the airplane ticket, you have also to pay the public officials guarding the immigrant (Tomás Bárbulo. *El País*, January 14, 2001).

country<sup>19</sup>. Spaniards try to be “politically correct” when expressing their opinion on immigrants, in general. It is observed a high level of acceptance and tolerance in these opinions. However, immigration became the main social problem for Spaniards in 2001<sup>20</sup>, and when expressing their opinion on the different immigrant communities (called *colectivos* in Spain), we can distinguish a hierarchy of preference, with Arabs from North Africa at the bottom and Latin Americans, East Europeans and Asians at the top, followed by Subsaharians (See Table 3). Those less accepted and integrated are the Africans coming from the Maghreb area (Morocco and Algeria mainly). Their implication in serious social conflicts with the native-born population (El Ejido incidents in year 2000) and the diplomatic problems between Spain and Morocco have increased what it has been called “*morofobia*”, that is, the hostile attitude of Spaniards and even other immigrant groups toward these North Africans, associated with crime, lack of cleanliness, discrimination against women, Islamic fundamentalism or their tendency to be more vindictive and nonconformist in the labor market than any other immigrants groups. On the other hand, the native-born population notices that these Maghreb immigrants prefer an attitude of “separation” whereas the Sub-Saharan have an attitude closer to the integration in society (Navas Luque 2002: 12).

In this way, some immigrants encounter more difficulties than others in their integration merely because of their national or ethnic origin, which is accentuated in some cases when we bear in mind language, cultural and religious differences. The Spain-born children of immigrants, regardless of nationality, seem to be integrating well, at least linguistically, through the public school system; the vast majority of such children are bilingual.

It is important to bear in mind the type of immigration a country has in order to formulate an effective integration policy and adopt the most adequate measures. Currently the immigration which Spain receives is characterized through being a young phenomenon –recent in time and with the immigrating population having a young composition<sup>21</sup>– with this trend set to continue to grow over the coming years. It is also

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<sup>19</sup> In a 1992 survey, 53 percent of Spaniards agreed that the best policy regarding immigrants from less developed countries was to encourage their integration while 38 percent believed that they should be returned. In 1994 those in favor of integration were 58 percent and 65 percent in 1997 (*Observatorio Permanente de la Inmigración* 1998: 73).

<sup>20</sup> Centro de Investigaciones Sociológicas (CIS). Study 2,049, *Barómetro de Febrero 2001*. Immigration also occupied the third place among the main general problems in Spain, after unemployment and terrorism. This situation continued during 2002 (CIS Study 2,459, *Barómetro de Junio 2002*).

<sup>21</sup> 87.2 percent of the foreigners residing in Spain under the general regime are less than 45 years old (author making from data of the Ministerio del Interior, Balance de Inmigración 2001: 91, tabla I.18).

characterised by a heterogeneous composition, an effect of globalization, with immigrants from all over the world –twenty-three countries with more than 10,000 legal residents– by having a very low number of asylum seekers and refugees<sup>22</sup> –less than 7000– a high proportion with an illegal status, a segmented labor market in which immigrants mainly work in a limited number of abandoned sectors as part of the national workforce (agriculture, hotel and restaurant work, domestic services, construction and commerce in detail) and a remarkable social exclusion (Arango 2002: 57-66).

**TABLE 3: FRIENDLINESS TOWARDS DIFFERENT GROUPS OF IMMIGRANTS**

	<b>Average 2001</b>	<b>Total (N) 2001</b>	<b>Average 2002</b>	<b>Total (N) 2002</b>
North Africans (Moroccans, etc.)	5,89	2288	4.9	(2306)
Africans (from the rest of the continent)	6,32	2257	5.5	(2290)
Asians	6,36	2188	5.6	(2232)
East Europeans (Polish, Hungarians, etc.)	6,50	2214	5.7	(2234)
Russians and ICE (former Soviet Union)	6,33	2199	5.7	(2211)
Latin Americans	7,14	2288	6.5	(2300)

\* 0= None friendliness; 10= much friendliness

Source: Centro de Investigaciones Sociológicas (CIS). Study 2.049, February 2001 and Study 2.459, June 2002.

We must clarify the meaning of the concept of integration. Concerning social integration there are concepts which we can call “culturalist”, those which consider that an immigrant is integrated into the host society according to how far they adapt to the cultural aspects of the host society. However, this position must be rejected and other concepts of social integration which place emphasis upon rights and comparison must

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According to the National Statistic Institute (Instituto Nacional de Estadística, INE, press note on July 26, 2002), the incipient recuperation of the birth rate and especially the huge foreign population volume nowadays have increased the Spanish population much more than expected in the early 90’s, when Spain hardly expected to reach 40 million population. If the migratory flows remain in this way, Spain will have in the middle term the same percentage of foreign population as others EU countries, such as Belgium -, which has 8 percent, or Germany, which has 9 percent.

<sup>22</sup> Baldwin-Edwards (2001: 3-4), thinks the causes of such a reduced figure are the scarce number of decisions granting the refugee status –during year 2000, 7,926 people asked for asylum, a small 35.87 percent of the applications were admitted, and only 370 people, a 4.6 percent of the asylum seekers, got the right to asylum (Ministerio del Interior. Anuario de Extranjería 2000: 167, Tabla IV)–, and the fact that entering, staying and working irregularly is relatively easy in the South European countries, at least in comparative terms, considering that in the EU the asylum regime established in the 1990 Dublin Agreement prohibits the asylum seekers to ask for asylum in several European countries.

be the basis for social integration. In this sense what is understood by integration is the process of comparison of rights, both legal and practice, of the immigrating people with the rest of the population, such as access, under equal conditions regarding opportunities and treatment to assets, services and levels of participation which society offers (Pajares Alonso 2002: 527).

### *Integration measures in the Immigration Law*

The integration dimension of migratory policy can be analyzed and assessed on two fronts: the first is the status of rights recognized as regards the immigrant. In this sense the Immigration Law differentiates very clearly between legal and illegal immigrants; the rights which are extended to legal immigrants are practically equal to those held by nationals, while in the case of illegal immigrants, they have been deprived of a large part of the rights awarded to them in the previous version of the Law, leaving them in a very precarious situation. Legal access to the labor market (with work permits) is the legal manner of entry and to gain access to the rights held by these economic immigrants.

The second front is the study of integration plans on the issue of immigration. It is clear that the integration of immigrants and the practical obtaining of rights is not only attained through legislative measures, complementary proceedings are necessary, but they do not all relate to the State Government, although it holds exclusively authority over matters of immigration. The Spanish Constitution distributes authority in accordance with which regional authorities –the Autonomous Communities– have essential competences in matters indirectly related to immigration, and above all concerning social integration of immigrants (social and health care, housing, education, access to work, culture, etc). Finally the efforts which local powers must also make towards the integration of immigrants must be taken into account. Local administrations find themselves in an asymmetrical situation, since they are the most tangible and closest administrations to the immigrant, who demands rapid and concrete proceeding from them, but at the same time these authorities have the least means to intervene and which have the least practical power (Zapata-Barrero, 2002)

Since the implementation of the new Immigration Law, on three previous territorial levels plans or programs for the integration of immigrants have been

developed, which try to encapsulate all of the measures to be adopted from the different fields of procedures, taking into account the authority of the respective governments.

What makes the Spanish case stand out compared with other countries like Japan or Korea is the adoption of integration measures and the acknowledgement of rights to immigrants in the immigration law, and more so in the case of illegal immigrants, although in this case rights are strongly limited. Other countries also do not have universal programs at the State level towards the integration of immigrants like the Spanish *Programa Global de Regulación y Coordinación de la Extranjería y la Inmigración* (GRECO Program)<sup>23</sup>, although as we will see later, it is centred more upon measures for controlling immigration than upon measures for integration.

The Law 4/2000 represented the first time that an immigration law took the integration of immigrants into account. It can be seen in its title “Law on the rights and freedoms of the foreigners in Spain **and their social integration**” [*Ley sobre derechos y libertades de los extranjeros en España y su integración social*]. In the reformed version of the Law several measures are included which can be classed within the field of integration. Within the organization of State Administration, the Law 8/2000 created two new organs with different functions aiming to co-ordinate proceedings, following a dual scheme which has been converted into the model scheme in Spain (Palomar Olmeda: 59). The first is the High Council for Immigration Policy (*Consejo Superior de Política de Inmigración*<sup>24</sup>), which is in charge of co-ordinating the authorities of the different public administrations which relate to or coincide with policy for the integration of immigrants. All the territorial administrations: State, Autonomous Communities, and Local Governments, participate in this organ.

The second organ is the Forum for Social Integration of Immigrants, which controls the participation of agencies and organizations concerned with the issue. Its functions are centred upon consultation, information and assessment towards the integration of immigrants. Immigrants’ associations and unions linked with immigration are represented in this organ, as well as the various administrations. We must reiterate that it is compulsory to consult the forum about global plans and programs at State

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<sup>23</sup> Global Programme to Regulate and Coordinate Foreign Residents’ Affairs and Immigration in Spain approved by the Spanish Cabinet on March 30, 2001, and officially published by the State Department for Immigration (Interior Ministry) on April 17, 2001.

<sup>24</sup> Art 68.1 of the Law 8/2000 foresees this Council which has been developed by the Real Decreto 344/2001, April 4, 2001.

level and about blueprints of programs, when the rules of the central State Administration may affect the social integration of immigrants.

The *Ley de Extranjería* included as a positive novelty the creation in each province of “*Oficinas de Extranjeros*” (an office to deal with foreigners), in which the services dependent on the different State Administrations with competences on immigration were unified to allow a better coordination and efficacy<sup>25</sup>. The Law also includes provisions to support the immigrants’ associative movements, the NGOs and non-profit associations which may favor the social integration of immigrants. Public aid may be given in the sense of technical aid, and also in the sense of aid for economical and material means.

Observation and study of the migratory phenomenon are also essential. With the aim of identifying its trends and evolution and of preparing proposals directed towards the channelling of migratory flows and the integration of immigrants, another organ, the Permanent Immigration Observatory is in charge of the recognition of statistics, the analysis and study of the different aspects of this reality and the diffusion of the obtained information.

However, the main instruments regarding integration are the rights granted to immigrants by the Law. The Law 4/2000 considered for the first time the right to family reunification and the measures against discrimination. After the reform, the integrative dimension which the rights granted to immigrants involve is strongly conditioned by the legal requirements to enter the country. The practice of such rights is limited to those immigrants who have been admitted to reside in Spain, or at least those whose presence in Spain can be considered regular because they have fulfilled all the administrative requirements.

Therefore, the control dimension interferes with the goal of social integration and it seems rather clear that the social integration of immigrants in society is closely linked to the legal situation in which they are, so we are going to analyze the different

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<sup>25</sup> It is still soon to evaluate if the situation has improved in the 12 provinces where these *Oficinas de Extranjeros* were created (those with a higher number of immigrants: Almeria, Santa Cruz de Tenerife, Las Palmas de Gran Canaria, Barcelona, Madrid, Lleida, Alicante, Valencia, Palma de Mallorca, Murcia, Ceuta and Melilla). In July 2002, *Oficinas de Extranjeros* were created in other 22 provinces, so only 13 of the 47 Spanish provinces do not have yet an *Oficina de Extranjeros*.

legal and administrative situations in which immigrants find in Spain and the rights granted to them in each situation.

*The legal and administrative situations of the immigrants*

The first factor establishing differences among immigrants is the way (legal or clandestine) in which they enter Spain. This will determine their legal (or illegal) situation and give access to a better or worse rights status for their social integration. If there are no more regularization processes, there will be a great difficulty in becoming legal for those immigrants who enter clandestinely in Spain. However often the immigrants enter legally but their later stay tend to an irregular situation.

In order to overcome the additional obstacles which foreign origin entails, legal entry is not enough. Within the scope of the legal status, the immigrant's administrative situation must be also considered. The Law 8/2000, in article 29, refers to the different administrative situations in which a foreigner can be legally in Spain; the "stay" (*estancia*), which can be defined as a temporary permanence limited to 90 days, and the "residence" (*residencia*) that can be temporal or permanent. The temporal residence is the situation in which a foreigner is allowed to remain in Spain for a period of time from ninety days up to five years (the initial residence permit is for one year and the renewals are for two years each). After five years of continuous residence, the foreigner will obtain permanent residence.

Immigrants who have never acquired any type of documentation to be legal because of his/her clandestine entry to the country and those who have been legally in the country during a certain period of time but due to different circumstances have not been able to get or renew the permits, are called undocumented or without papers (*sin papeles*). These persons present in Spain do not exist from a legal point of view, and their situation is not defined by the Law. This situation can be negatively defined as the absence of any type of administrative authorization to legitimize the immigrant presence in Spain (Ruiz Olabuénaga, Ruiz Vieytez y Vicente Torrado 1999: 59). Undocumented immigrants in the country are in an administrative situation which is called "*presence*".

Paradoxically, the Law recognizes the presence situation somehow, because it foresees the possibility to offer a temporary residence permit, when the undocumented immigrant proves a continuous stay in Spain for a minimum period of five years. This has been called "permanent regularization", a stable way to legalize irregular

immigrants included in the Immigration Law, apart from the traditional massive and sporadic regularization processes carried out in specific situations by the Government. The period of irregular stay can be reduced to three years if the immigrant proves his/her roots (*arraigo*) in Spain. By roots we can consider either 1) family ties with legal residents or Spaniards or 2) real or potential entry in the labor market. Demanding entry into the labor market is a contradiction, because the foreigner does not have a work permit, which means, the foreigner is working “de facto” and not “by right”. Finally, irregular immigrants who had a residence permit before and could not renew it can ask for a temporary residence permit if they have stayed continuously in Spain for the two previous years.

The former version of the Law 4/2000 recognized certain rights to the irregular immigrant registered in the *padrón* (which is the list of the municipal inhabitants), introducing what we can consider an intermediate category between presence and stay which is analyzed later.

#### *Integration via the labor market and legal situations*

Labor insertion is also a crucial factor for social integration. The reason is the link between residence and labor permits. In practice, for economic immigrants, (that is, most of them) the residence permit is only granted if they have a job which allows them to obtain “enough economic means”, which are demanded for the initial granting or the renewal of the residence permit, so they ask at the same time for the initial work permit and the temporary residence permit. Unemployment leads to more serious consequences in the immigrants' *colectivos*. The connection between work and legal status means that unemployment can be the way out from legality and total social exclusion (Forum for the Social Integration, 1997: 72).

The initial work permit can be directly obtained by the ordinary proceeding (*regimen general*) established in the Law 8/2000. The immigrant can also resort to the special regime of the labor quota (*contingente*) established every year by the Government taking into account the foreign hand labor needed in Spain<sup>26</sup>.

However, for an immigrant to obtain a job, first he must have a labor contract and the Administration have to consider the “national situation of employment”, which

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<sup>26</sup> The Government determined in 2002 a quota of 10.884 steady workers (hired at least for one year or longer) and 21.195 temporary workers. For the year 2003 has foreseen a quota of 10.575 steady works and 13.672 temporary works.



means that foreigners are only allowed to work when there are not enough Spanish, EU-citizens or other legal foreign workers in the total nation to cover those jobs. As a result of this, as is the case in most countries, preference is given to the national workers, although due to Spain belonging to the European Union that preference is extended to all EU citizens, and also to those foreign workers which have already been authorized to work and reside in Spain. This occurs in the *regimen general*, service a certificate from the National Employment Office (INEM) is required in order to prove that there is no demand for the labor activity which is to be contracted to the foreign worker. In the case of the process established in the *contingente*, the national employment situation is considered before determining quotas. As the overall quota is divided between the different provinces and activity sectors, quotas are not assigned to those provinces and sectors where there is national demand for work.

The labor quota system seeks to channel the labor migration flows from the origin countries. Workers are hired there after a previous demand for hand labor from Spanish employers. The Government then reaches agreements with origin countries to contract a number of workers if those countries compromise to accept the illegal immigrants that are expelled from Spain (Puerta Vilchez 2001: 377). However, since this system was established in 1993, it has been used as a hidden legalization program of those foreigners already in Spain without papers (Campuzano 2001: 57, Peña 2001: 100). According to the Law 4/2000 those immigrants in presence or stay status could be part of the quota. But the Law 8/2000 says that only those foreigners that **are not in Spain** can be part of the quota, whatever their administrative situation is. This underlines the idea that the new quota is not a system to legalize immigrants.

Since the introduction of the new Law, the Spanish government has tried to convert the *contingente* into the only system so that economic immigrants may obtain permission to work in Spain. In 2002, the Government tried to remove the *régimen general* using the regulations of the *contingente*, establishing that while the quota system was in force, irregular immigrants and those in stay status in Spain would not obtain an initial work permit even if they had a job offer, because the general regime was replaced for the stipulated period by the quota system. Consequently, the Labor Ministry gave instructions to deny, previous to proceeding, those applications received via *regimen general* that could be covered by the quota system. But this has been declared illegal by several provincial Courts, and in the new rules of the *contingente* for 2003 both processes are once again compatible, but foreigners who wish to request their

visa –requirement for employment and residence– personally<sup>27</sup>. This way, those foreigners in an illegal situation who may have an offer of work will have to return to their countries to request their visas, and if they are not granted to them, they will not be able to return to Spain.

According to all this, the toughest step towards integration for an immigrant is the initial and legal access to the labor market, because of the requirement of the national situation of employment and the new labor quota system, because the requirement of the national situation of employment is suppressed for the renewal of the work and residence permit.

Considering this relationship between labor market insertion and legal status, Lorenzo Cachón (1999: 125) distinguishes 3 different groups of immigrants:

- The “*settled*” (*asentados*): who are those immigrants who have achieved a stable situation in the native-born labor market, and certain degree of roots in the Spanish society
- The “*unstable*” (*inestables*): those immigrants who, despite living in Spain in a legal situation have not achieved a stable labor insertion.
- The “*undocumented*” (*indocumentados*): those immigrants who are in irregular situation regarding residence and/or work permit.

As the labor quota system excludes immigrants already in Spain, and access to the ordinary process is difficult (if the quota does not remove it), the only possibility for clandestine immigrants or those who become irregular after a legal period, is to be in the underground economy, in which about 28.9 percent of immigrants work nowadays (Carrasco 1999: 170). There, they have to compete with nationals (now in a precarious situation) and, mainly, with each other; so, only those who offer themselves for total exploitation will have access to a job. The irregular status is also reached by those immigrants that start working legally in Spain thanks to the quota system or/and by the seasonal work process, and fail to fulfil their obligation to return to their countries, because the Spanish Government does not guarantee them to call for the next years if they come back there.

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<sup>27</sup> Before 2003 the immigrant was permitted to ask for the visa through a representative. S/he only had to return to his/her country to pick up the visa when it was already granted and later enter legally in Spain for working. If the visa was denied, s/he remained in Spain.

## **Integration factors. The legal-administrative status and the rights of the immigrants**

Regarding the rights granted to immigrants, the new immigration Law makes the immigrants' rights status and their possibilities of social integration depend on their legal and administrative situation in Spain. The actions planned by the GRECO program to develop its integration goal can show this because most of them are measures to develop rights or to make easier the procedures to access the different legal administrative situations.

In the case of irregular immigrants, whose 'presence' situation is not recognized, their rights have been limited to a minimum since the reform of the Law 4/2000, and their possibilities of social integration are very few after the disappearance of the legalization programs and their exclusion from the new labor quota system. The limiting of rights which the new *Ley de Extranjería* has created is evident now mainly for immigrant *with no papers*. It is clear that social integration as an objective of the Spanish immigration policy does not include irregular immigrants. This is reflected in the rights that the administration grants them. There is a direct relation between the legal-administrative situation of the immigrants who live in Spain and the status of rights which are recognized for them (see table 4, pag. 28).

The change of mentality appears in the Law from the very beginning. Equality with Spaniards in the recognized rights, which we could find in article 3, becomes a simple interpretative criterion of the practice of rights, not of their entitlement after the reform. Article 3 said "the foreigner will enjoy in Spain, under the same conditions as Spaniards, rights and freedoms recognized (...)" [*los extranjeros gozarán en España, en igualdad de condiciones que los españoles, de los derechos y libertades reconocidos*]. Thus, the Law 8/2000 establishes in the same article that "as general interpretative criterion, it will be understood that the foreigners will practice the rights that the Law recognizes for them under the same conditions as Spaniards" [*como criterio interpretativo general, se entenderá que los extranjeros ejercitan los derechos que les reconoce esta Ley en condiciones de igualdad con los españoles*].

This difference, between the recognition of right entitlement and the possibility to practice it, is a "legal trap" which eliminates irregular immigrants' rights despite being recognized at the beginning. This way, in the regulation of rights of association, demonstration, unionization and strike, it is said by the Law that foreigners (all of them)

will have the rights, but it is also added that they will only be able to practice them when they have a residence permission (or a stay authorization in some cases) in Spain. This turns the Law 8/2000 into a law that seems suspicious of unconstitutionality because the legislator limits the immigrant practice of the basic rights that the Spanish Constitution gives to every person (Vidal Fueyo 2001: 184). This has raised many protests and has led to appeal to the Constitutional Court for its unconstitutionality<sup>28</sup> to eliminate the restrictions upon these rights, together with the right to free legal assistance. In the case of the 1985 Law, the Constitutional Court considered some of the obligations established to practice the rights as contrary to the Constitution<sup>29</sup>.

Those immigrants who are in *stay* situation have more integration possibilities if they find a job during that period and apply quickly for a residence visa to change to a *residence* situation. However, the new quota system has limited the ways to move from *stay* to *residence* status, as it forces the immigrant to return his/her origin country to ask for the visa without guarantees about its granting. These foreigners may stay in Spain temporarily for a maximum of six months<sup>30</sup>, in a legal situation and possess all rights under this condition, except for those for which the Law requires them to be residents, such as the right to vote in local elections, access to non-compulsory education and to grants and aids, the right to create and run learning centres, the right to aid to buy or rent a dwelling, or to request free legal assistance in all cases. They are also limited what rights are linked to a stable permanence in Spain, as they are in their rights to being contracted by public administration, to access to the social security system, to specific social services or the right to family reunification.

The restriction of rights since the Law 8/2000 has not, however, affected the situation of resident legal immigrants. The “residence” situation involves a status of

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<sup>28</sup> Appeals were presented by the Parliaments of the Autonomous Communities of the Basque Country and Navarre and by the governments of other Autonomous Communities (Andalusia, Castille-La Mancha, the Balearic Island, Extremadura and Asturias). The Ombudsman was also requested to appeal as it happened against the Law 7/1985, but he refused. This was followed by much criticism because he had failed in his obligation of impartiality. The main opposition party, the Socialist Party (*Partido Socialista*), also appealed. All the appeals are still under proceeding.

<sup>29</sup> Specifically, the Constitutional Court Sentence 115/1987 considered that the demand of governmental permission to carry out public assemblies or demonstrations by foreigners (article 7) and the possibility of adjourn without administrative permission the activity of associations constituted by foreigners were opposed to the Constitution.

<sup>30</sup> The exception is the situation of students, which are documented with a permit that allows them to reside in Spain for a maximum period of a year (renewable), but their administrative situation is not considered “residence” but “stay”. This is to avoid the student status becomes a back-door to stay permanently in Spain and to avoid the origin countries –often underdeveloped– don’t benefit from the education obtained by their citizens abroad. As compensation, students can work in hours compatible with their timetable and have the right to family reunification during their stay, rights which are not granted to the rest of foreigners in “stay” situation.

rights quite similar to Spaniards'. In this sense, Spain has evolved in recognizing the rights of foreign residents. In the Law of 1985 were only granted the rights to move throughout Spanish land and choose a place of residence, the right to meeting and association with the strict control of the administration, the right to strike and unionization, the right to education and freedom to teach, also the right to create and run learning educational centres, and the right to vote which was limited to active voting and limited by the principle of reciprocity with the country of origin abroad. The ruling of 1996 brought an important advance in the recognition of subjective rights to foreigners –EU citizens having already been excluded from this category since 1992, given equal rights to Spaniards in all aspects other than that of the active and passive vote in national and autonomous elections– and the beginning of recognizing immigration as a structural phenomenon. The protection of the rights of immigrant minors stands out, along with the right free legal and judicial aid and to an interpreter in court, to equal working conditions and access to social protection (especially in the case of unemployment) and to health care, to residency permits through family reunification and the new factor of permanent residence for immigrants with six years of continuous legal residence. The results were such that it has been considered a “hidden reform” of the 1985 Law (Ortega, 2003).

Since the Law 4/2000 the statute of rights for immigrants who reside legally in Spain has improved even more, comparison those of EU citizens and approaching those of Spanish national citizens. Immigration has made us refocus ourselves upon the concept of citizenship, the legal statute of the citizen through which the individual's formal belonging to a political organization, a State, is organized. This statute recognizes the collective rights and obligations of members which form part of the political community, and represent an individual alliance with the State. In current host societies like Spain a proliferation of a status of partial belonging is valued based on the recognition of a large part of rights reserved for citizens in favor of foreigners (López Sala: 521-522). In this way, following the theory of postnational citizenship of Soysal (1996: 17-25), we can say that the experience of immigration shows that national citizenship has been gradually substituted by a more universal model of the membership or belonging based less upon territorial considerations and more upon the notion of the rights of the individual.

Among the rights and freedoms of resident foreigners in Spain, some were already included in the ruling of 1996: the right to circulate freely through all Spanish

territory and freely choose one's residence, the freedoms of unionization, strike association and being the promoter of associations, the right to the acquisition of academic titles corresponding to studies undertaken and to graduate, the right to enrol the local *padrón* and the right of access to the carrying out of activities of an educational or scientifically investigative nature.

Other rights were recognised in the earlier legislation but their content was expanded in the Law 4/2000. The right to vote in local elections<sup>31</sup> ceases to be merely active (the right to vote) and extended to include passive rights (the right to present oneself as a candidate), the right to conduct meetings and demonstrate is free from previous administrative complexity, the right to education and access to the grants and public aid system is widened to include all educational levels, family reunifications is recognized as an authentic right of the immigrant who is in Spain, presence of a lawyer and interpreter now applies to any jurisdictional order, the right to free judicial aid has seen an equalling of rights between legal foreign residents and Spaniards, and the rights to social care and provisions, and to healthcare have been specified through the rights to access to the public aid system over matters of housing, to the benefits and services from the Social Security system and the right to basic and specific Social Services. Finally, new rights are in place such as the right to work (as long as the immigrant fulfils the required conditions to obtain permission or does not need it) and to effective judicial protection. Moreover, the rights of the immigrant workers, regardless their legal status, show a progressive equalling to those of the Spanish workers. Through the Law 8/2000, even irregular workers have the right to get the salary and the unemployment pay when they are fired.

The rights granted to the foreigners are limited in certain aspects by the integration model set in Spain. Foreigners can not make actions against the rights or the rest of the regulations included within the immigration law claiming their religious or ideological convictions. That is the reason why Spain has recently included the cultural practice of the clitoris ablation as a crime in the Criminal Code, because it damages a fundamental right like is the physical integrity.

On the other hand, the restrictions effected by the Government on irregular immigrants' rights are limited too. Human rights or other fundamental rights which the

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<sup>31</sup> In fact, apart from EU citizens, only Norwegians have this right, as Spain have not signed the European Agreement about the participation of foreigners in the local public life of the 5<sup>th</sup> of February 1992, and in the Law 4/2000 the practice of the right to vote is under the reciprocity condition with the origin country of the foreigner.

Agreements in force in Spain or the Spanish Constitution grant to every person can not be limited by the immigration law, and lawsuits have been brought against Law 8/2000 on this regard. Although the Constitutional Court have not pronounced yet, the Supreme Court on its historical Sentence of march 20<sup>th</sup> of 2003 has abolished eleven articles from the Rule 864/2001 which developed the 8/2000 immigration Law.

One outstanding aspect of the Immigration Law has been the inclusion of a chapter titled “anti-discrimination measures”. Foreigners can request judicial protection through a process which is resolved in a more preferential manner than others and in a shorter space of time. Any act is considered discrimination which, directly or indirectly, entails distinctions, exclusion, restriction or preference against a foreigner based on race, colour, descendency or national or ethnic origin, religious practices and convictions, as long as its objective or effect is to destroy or limit the recognition or exercising, under conditions of equality, of fundamental liberties and human rights on the political, social and cultural spectrum.

Through these measures safeguards are in place to guarantee that rights granted to immigrants are effective. To clarify what is or is not discrimination, the Law includes a catalogue of actions which must be always considered discriminatory: those acted by government employees which impose stricter conditions than those of Spaniards or implies resistance to allowing a foreigner assets or services offered to the public, or acts, which illegally place heavier conditions, limiting access to work, housing, education, labor training and social and assistance services, as well as the other rights recognized by the Immigration Law. The differentiation in the treatment must be caused only because they are of a different race, religion, ethnos or nationality. However, it can be criticised that only these acts are considered to be discriminatory when the victim is a legally residing immigrant, and not when applying to illegal immigrants (Rubio 2001: 763). That is to say, the legal and administrative situation of the immigrant is used to justify their discrimination, not only when recognizing their rights or not recognizing them, but also when guaranteeing the few rights which are recognized in favor of immigrants in an illegal situation.

#### *The registration in the municipal padrón and the access to certain essential rights by irregular immigrants*

Registration in the municipal *padrón* gives some rights to immigrants. In these cases some intermediate right status between presence and stay appear. The municipal

*padrón* is the register that collects information about the people that live in the municipality. It is an administrative statistical instrument and "every person that lives in Spain has the obligation to register in the *padrón* of the municipality in which s/he habitually resides" [*toda persona que viva en España está obligada a inscribirse en el padrón del municipio en el que resida habitualmente(...)*]<sup>32</sup>. This register is open to any person, including irregular immigrants. It provides an ambivalent statistic regarding of immigration because it can be used as an integration or inclusion element of irregular immigrants, granting them basic rights, such as health care, housing or social services. However, it can also work as an instrument of exclusion, to control irregular immigrants, if the independence from police registers is not guaranteed (Salmerón 2002: 35).

Nowadays, the *padrón* has only a statistical function. The personal information in the register is confidential and there are not controls about the legality or illegality of the foreigners registered in it. The fact that irregular immigrants are allowed to register in it without any negative consequence, being able to acquire some rights, makes this one of the few data sources that can give us an approximate number of irregular immigrants living in Spain. That is why the requirements to prove their identity and that they have an address in the municipality are quite flexible<sup>33</sup>.

The rights to which the immigrant has access when registering the municipal *padrón* have been reduced after the reforms introduced by the Law 8/2000. So, the irregular immigrant enrolled, who had been recognized as a *subject of rights*, is again legally forgotten with the restrictions carried out concerning some rights:

a) *Free legal assistance*. A 1996 law grants the right to free legal assistance to any person who proves not to have enough economic means to pay for a lawyer and an interpreter. In the case of foreigners, this right is granted for criminal proceedings, but this is not the case when they are litigious-administrative proceedings, if the immigrant is not a legal resident. The 1985 *Ley de Extranjería* provided it only for *preferential indictment expulsion*. This happened when the foreigner was detained when waiting for the expulsion (Sagarra 1991: 262). The Law 4/2000 widens the right, by granting it to both the legal residents and the irregular immigrants registered in the *padrón*. However,

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<sup>32</sup> Article 15 of the Law 7/1985 *Reguladora de las Bases del Régimen Local* (which regulates the Basis of the Local Administration Regime).

<sup>33</sup> The identity can be proved by the foreigner card, or with the passport. Besides, it is considered a valid address for the registration in the *padrón*, any address in which there are neighbors, even in the poor houses, or there are several families living together (Technical instructions about the municipal *padrón* of inhabitants. July 21, 1997 Resolution of the Presidential Ministry undersecretary's office).



the Law 8/2000 has reduced it to the asylum proceedings, and to those that can lead to the denial of entry, repatriation or deportation<sup>34</sup>.

b) *Housing*. This does not serve to directly grant a house to the immigrant, but the right to access public aid to acquire one. After the reform, the Law 4/2000 that had also granted this aid for irregular immigrants enrolled in the *padrón*, keep it only for legal foreigners. This turned housing into an element of social and spatial segregation of immigrants, instead of making the integration easier. In the agricultural areas, the immigrants that work in the fields live outside the central area, quite often in old houses called *cortijos* (farms) left when the businessmen, who contract the immigrants under precarious conditions, moved to the towns and cities.

Immigrants that live in the central area and do not work in agriculture have many difficulties to find a house in "normal" places. This is due to the fact that the real estate market is mainly controlled by the estate agencies. They prefer a nationality seeker or a foreigner from the first world with an acceptable economic situation. This leads the immigrants to search for a house in those places in which the market is controlled by small owners of old houses, who do not fear the damage that the tenant can cause, because most immigrants rent the houses where they live, or estate agencies which work with low quality and low price houses (Checa 2002: 2-5). The result is that most immigrants live separated from the local population, in neighbourhoods and areas "reserved" for the marginal groups of population, so they only integrate with those who are excluded from society.

The immigrants' flats are characterized because they are crowded. This is produced by several factors: firstly, the shortage of flats to let (mainly because immigrants are discriminated, and they are often asked to pay higher prices than those stipulated by the market); secondly, the immigrants try to make their housing expenses as cheap as possible, due to their labor instability and their few economic means; finally, the immigrants' social bonds, and the excessive tolerance of the owners, who increase the rent according to the number of people (Checa and Arjona, 2001: 150).

c) *The right to health care*. It is the only right that the Law 4/2000 enlarged through the registration in the *padrón* that has been maintained after the reform. So, irregular immigrants enrolled in the *padrón* have the right to free and complete health care in the

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<sup>34</sup> However, the Interior Ministry informed that those foreigners that had tried to cross the borders in a clandestine way would not be able to enjoy this right. It also reported that the Law only referred to the foreigners who had been rejected at a border or those who were already in Spain, despite their entry was clandestine.

same conditions as Spaniards. However, those who are not enrolled will only be assisted in emergencies, (as happened in the 1985 Law for all irregular immigrants). The exemptions are pregnant women and minors (less than 18 years old), who have the same assistance as Spaniards.

Another possibility that the *padrón* offers is that the immigrant can apply for a certificate which proves his/her residence and habitual residence in the municipality. This does not mean that the *padrón* certifies the legal residence of the irregular immigrants registered<sup>35</sup>, but it can prove the stay period in Spain in order to access “permanent legalization”. Originally the Law 4/2000 only required individual to prove an uninterrupted stay in Spain for two years, to be enrolled in the municipality and to have economic means. With the new documentation, apart from making the periods longer, the reference to the *padrón* is eliminated “with the possible purpose of leaving the Administration a higher freedom to value the granting of residence permits in these cases” (Esteban de la Rosa 2001: 492).

#### *Renewed residence permit and right to family reunification*

A fundamental right for the social integration of immigrants in Spain is that recognized by article 16 of the Law 8/2000. This recognizes the right of foreigners residing in Spain to their family life and privacy, and to reunify certain relatives; but this is also limited by the legal status of the immigrant, and it has been reduced by the new regulation<sup>36</sup>. It is not only demanded that immigrants that apply for the family reunification have legal status, but also that they have assurances to keep that status. This is why it is only granted to those immigrants that have residence and work permits renewed. The requesting person has also changed: before it was possible that the relative who was in a foreign country could do it; now it is only possible to be done by the immigrant residing in Spain. S/he must have an appropriate house to cover the

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<sup>35</sup> The *Ley de Bases de Régimen Local*, which regulates the municipal *padrón*, was reformed in 1996. In the article 18 it says that the enrollment of foreigners “will not be a proof of their legal residence in Spain and no rights will be granted if the legislation in force denies them, mainly regarding the rights and freedoms of immigrants in Spain”, [“no constituirá prueba de su residencia legal en España ni les atribuirá ningún derecho que no les conceda la legislación vigente, especialmente en materia de derechos y libertades de los extranjeros en España”].

<sup>36</sup> Two of the modalities of reunification provided by the Law 4/2000 have been eliminated: the first one, for humanitarian reasons, which permitted the immigrant to reunify those relatives who are not ancestors, descendents or the spouse (for example brothers and sisters, aunts and uncles, nephews and nieces that economically depend on the immigrant), and the second one related to the foreign relatives of Spaniards.

family needs, as well as enough economic means to maintain the reunified family and health assistance covering them.

Among the relatives, it is only possible to reunify children and legally represented under 18 or disabled relatives, the spouse (this right is not allowed for the “de facto” couple or for the second or successive spouses in Muslim marriages), and the ancestors. However, there is a European Union Directive<sup>37</sup> proposal which also allows reunification of cohabiting couples if a strong relationship exists with the reunifying couple in a similar situation to that of married or unmarried couples within the Member State. This poses problems regarding Spain, as there are some Autonomous Communities where the situations of married and unmarried couples are comparable (Navarre, Catalonia, etc), while with other Autonomous Communities this is not the case.

It seems evident that the new program for reunification gives an answer to the legislative worries of restricting reunification to avoid a geometrical growth of the residence visa applications, mainly the so-called “chained family reunification”<sup>38</sup>, (González López 2002: 62). For that reason, the Law established that the reunified relative would have a permit that will depend on the permit of the reunifying immigrant, and s/he would not be able to reunify his/her own family until s/he obtains an independent permit. S/he needed for that to live in Spain for two years with the immigrant that reunified him/her, or to have obtained labor permission, but these requirements have been recently suppressed by the Supreme Court<sup>39</sup>, so a reunified immigrant can reunify his/her own relatives too.

#### *Permanent residence and citizenship*

Regarding permanent residence, which the immigrant obtain after five years of continuous legal residence in Spain, the main difference between the temporal and the permanent residence is that the foreigner is granted the right to reside indefinitely and can work in the same condition than any Spaniard, without necessity to get a work

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<sup>37</sup> Modified Directive Proposal COM (2000) 624 Final, about the right to family reunification, on October 10, 2000.

<sup>38</sup> For that reason, the relative will have a permit that will depend on the immigrant who reunified him/her, and s/he will not be able to reunify his/her own family until s/he obtains an independent permit. S/he will need for that to live in Spain for two years with the immigrant that reunified him/her, or to have obtained labor permission.

<sup>39</sup> Supreme Court Sentence on March 23, 2003, Sala de lo contencioso-administrativo,

permit and with a special protection against deportation for him/her and his/her family<sup>40</sup> (Cabellos 2000: 104).

The differences with regard to the recognized rights of Spanish citizens and those of foreigners who have acknowledged permanent residency are very few, uniquely in the case of the active and passive right of suffrage. The foreigner's situation is virtually the same as that of EU citizens: the only differences are, firstly, the right to vote in local elections which EU citizens have whilst; in the case of citizens of third countries this right is limited by the principle of reciprocity, although it is guaranteed that they may participate publicly and that they may be heard by the local government, according to the local regime. Secondly, there is a difference in terms of their freedom to circulate, reside and work in the territory of other European Union countries. However, in the proposal of the European Union regarding the statute of nationals from third countries that are long-term residents, COM (2001) 127 Final (DOCE C 240 E, at 28-8-2001, p. 79) comes into force those who have a legal and uninterrupted stay for five years in an EU country will be granted these rights. In Spain, it means these rights will be linked to the permanent residence status.

Finally, those who get the Spanish *citizenship/nationality* can be considered as completely integrated into the Spanish society and will have all the rights, including the right to vote in autonomous and general elections, but they cannot be considered as "foreign residents". It is odd that, with the regime of Spanish nationality acquisition, immigrants from Ibero-American countries may obtain nationality without having obtained previously permanent residency, given that they are only required to have resided legally and continuously in Spain for two years, compared with the general period of ten years<sup>41</sup>.

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<sup>40</sup> Those foreigners who get the permanent residence status can not be deported, even when they have committed a crime, unless they take part in activities against the exterior security of Spain or severe actions against public order. This has been called "safe residence", and extends to certain relatives of the foreign resident: spouse, ascendants, children and legally represented under 18 or disabled relatives (Martínez Cuevas 2002: 172).

<sup>41</sup> This period is reduced to five years in the case of refugees, two years if they are nationals of Ibero-American countries, Andorra, Philippines, Guinea, Portugal, or the Sephardim, and one year for those born in Spanish land, widows and widowers of a Spaniard and the spouse of a Spaniard if they have been married for one year. The Spanish Government reformed on September 2002 the Civil Code regarding citizenship. On one hand, this reform gives the foreigner, whose father or mother was originally Spanish and born in Spain, the possibility to apply for the Spanish nationality. It allows the children of Spanish emigrants, who lost their Spanish nationality, the access to the Spanish citizenship even though they were not born in Spain, and reduces to one year the period of legal residence in Spain for the foreigners born outside Spain, whose father or mother, grandfather or grandmother were originally Spanish.

**TABLE 4. RIGHTS GRANTED TO IMMIGRANTS ACCORDING TO THE ADMINISTRATIVE SITUATION AND THE LAW IN FORCE**

<b>ADMINISTRATIVE SITUATION</b>	<b>RIGHTS AND FREEDOMS BEFORE THE REFORM OF THE LAW 4/2000</b>	<b>RIGHTS AND FREEDOMS AFTER THE REFORM OF THE LAW 4/2000</b>
<i>PRESENCE</i>	<ul style="list-style-type: none"> <li>✓ Right to register the pardon</li> <li>✓ Emergency health assistance (1)</li> <li>✓ <i>Freedom of assembly (*)</i></li> <li>✓ <i>Freedom of demonstration</i></li> <li>✓ <i>Freedom of association, but not being the promoter</i></li> <li>✓ Complete right to education</li> <li>✓ Right to basic Social Services</li> <li>✓ <i>Right to unionization</i></li> <li>✓ <i>Right to strike</i></li> </ul>	<ul style="list-style-type: none"> <li>✓ Right to enrol de local padrón</li> <li>✓ Emergency health assistance (1)</li> <li>✓ Free legal assistance and interpreter, restricted by certain proceeding (2)</li> <li>✓ Right to education, only the compulsory education</li> <li>✓ Right to basic Social Services</li> </ul>
<i>PRESENCE AND REGISTRATION IN THE PADRÓN</i>	<ul style="list-style-type: none"> <li>✓ Complete health care</li> <li>✓ <i>Free, complete legal assistance and Interpreter</i></li> <li>✓ <i>Access to public helps regarding housing</i></li> <li>✓ Possible access to legal situation through “permanent regularization” <i>after 2 years</i></li> </ul>	<ul style="list-style-type: none"> <li>✓ Complete health care</li> <li>✓ Possible access to legal situation through “permanent regularization” after 5 years.</li> </ul>
<i>STAY</i>	<ul style="list-style-type: none"> <li>✓ Right to carry out teaching and investigation activities</li> <li>✓ Freedom of movement and residence in the whole Spanish territory</li> </ul>	<ul style="list-style-type: none"> <li>✓ Right to carry out teaching and investigation activities</li> <li>✓ Freedom of movement and residence in the whole Spanish territory</li> </ul>
<i>RESIDENCE PERMIT</i>	<ul style="list-style-type: none"> <li>✓ Right to create and run educational centres</li> <li>✓ Basic and specific Social Services</li> <li>✓ Freedom of movement and residence in the whole Spanish territory</li> <li>✓ Political right to vote at the municipal election</li> <li>✓ Benefits and services from the Social Security system</li> <li>✓ Right to be hired by public organizations as “<i>personal laboral</i>”</li> </ul>	<ul style="list-style-type: none"> <li>✓ Access to the public helps regarding housing</li> <li>✓ Free, complete legal assistance and interpreter</li> <li>✓ Freedoms of assembly, demonstration and association and being also the promoter</li> <li>✓ Right to education (all levels), to grants and aids, and to create and lead educational centres, as well as to carry out teaching and investigation activities</li> <li>✓ Basic and specific Social Services</li> <li>✓ Freedom of movement and residence in the whole Spanish territory</li> <li>✓ Political right to vote at the municipal election</li> <li>✓ Benefits and services from the Social Security system</li> <li>✓ Right to be hired by public organizations as “<i>personal laboral</i>”</li> </ul>
<i>RESIDENCE PERMIT AND REGISTRATION IN THE PADRÓN</i>	<ul style="list-style-type: none"> <li>✓ <i>Election of representatives to participate in the municipal discussions and decisions</i></li> </ul>	<ul style="list-style-type: none"> <li>✓ Right to the public participation and to being heard, according to the basis of the local regime.</li> </ul>
<i>PERMIT RENEWED</i>	<ul style="list-style-type: none"> <li>✓ Right to the family reunification</li> </ul>	<ul style="list-style-type: none"> <li>✓ Right to the family reunification</li> </ul>
<i>PERMANENT RESIDENCE</i>	<ul style="list-style-type: none"> <li>✓ Right to reside indefinitely and to work under the same conditions as Spaniards</li> </ul>	<ul style="list-style-type: none"> <li>✓ Right to reside indefinitely and to work under the same conditions as Spaniards</li> <li>✓ Freedom to move, establish and work in the European Union<sup>42</sup></li> </ul>
<i>CITIZENSHIP</i>	<ul style="list-style-type: none"> <li>✓ ALL RIGHTS</li> </ul>	<ul style="list-style-type: none"> <li>✓ ALL RIGHTS</li> </ul>

\* The rights in italics have been suppressed or modified after reform of the Law 4/2000.

(1) The foreigners younger than 18 and the pregnant foreigners during the pregnancy, the delivery and after the delivery, have the right to health care under the same conditions as Spaniards.

(2) It will only be carried out in the case of administrative or legal proceedings that can finish with the denial to entry, the repatriation or the deportation of the national land.

Source: Author making from Alarcón, Marañón and De Martín: 2002: 33.

<sup>42</sup> If the proposal of the European Union regarding the statutes of nationals from third countries that are long-term residents, COM (2001) 127 Final comes into force.

## **Integration plans, rights and legal status of immigrants**

These plans are the second essential factor in public proceedings to accelerate the process of the integration of immigrants and remove the obstacles which they encounter. The integration plans try to deal with the phenomenon of immigration from all perspectives, co-ordinating proceedings from all organs, both public and private, which deal with immigrants as well as planning aims and joint routes of procedure which are carried out through established measures, through these methods conditions are attempted to be created so that immigrants may exercise their full rights in a real and effective way and have access to all common services available to the collective population, that is to say the full integration of the immigrant population into the host society.

What makes Spain stand out in comparison with existing situations in other recent immigration countries is the existence of a State plan for the social integration of immigrants, the Global Program to Regulate and Coordinate Foreign Residents' Affairs and Immigration in Spain (GRECO Plan). The first plan to promote the social integration of immigrants at national level (PISI) was adopted in late 1994. However, it was essentially a list of general goals (combating discrimination, reducing barriers to immigrant integration, etc.) rather than a blueprint for concrete actions (Arango 2000: 270).

The GRECO Plan, after analyzing the characteristics and the rise of immigration in the last few years in Spain, comes to some conclusions which show there is a change in Spanish mentality regarding immigration. It concludes that Spain has to take advantage of the experience that other European countries, such as Germany, France or the United Kingdom have on migratory policy; it also assumes *"the foreseeable continuation of the existing migratory flow, and that the necessity of foreign workers in some labor sectors must be increased in the coming years"*, as well as a rise in migratory pressure together with an increase of the people-smuggling rings related to this phenomenon. On the other hand, the GRECO Plan foresees that the presence of immigrant population coming from the North of Africa, South America, China and sub-Saharan Africa will be more and more important in Spain, especially in those Autonomous Communities where they normally concentrate (Andalusia, the Canary Islands, Catalonia, Madrid, Valencia and the Balearic Islands).

The GRECO Plan is the consequence of the fact that the government is beginning to consider immigration as a structural phenomenon of Spanish society which

justifies a comprehensive immigration policy and to consider its positive aspects; foreign-born workers are necessary because of the increasing unwillingness of Spanish workers to perform especially dangerous, difficult or unpleasant jobs. . It also acknowledges that the strict control on migratory flows through strong legislative measures included in the Immigration Law is not sufficient in tackling the migratory phenomenon. It is necessary to reduce migratory pressures through co-operation with the sending-countries and the integration of immigrants to avoid the clashes between the immigrant population and the recipient population.

Therefore this Program attempts to handle immigration as a permanent issue, and it is formed by a set of actions based on each one of these four basic lines:

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

Each point is developed in specific actions and these actions are divided in a certain number of measures, which rely upon a specifically assigned budget<sup>43</sup> and are controlled and organised by a concrete authority or organization. It is important to stress that these measures are not only directed at immigrant, many of them are directed at the Spanish population with the aim of informing them of the positive effects of immigration, cementing coexistence and respect between different cultures and educating the recipient population in order to avoid conflicts provoked by racist xenophobic conduct, there is no doubt that the attitude of the recipient population towards immigrants also constitutes a decisive factor in their social integration which can contribute to making the measures of the plan more effective and integration master, or by contrast impede it.

The Program will be in force during the period 2001-2004 and involves the collaboration of seven Ministries: Foreign Affairs, Justice, Interior, Education Culture and Sport, Work and Social Affairs, Public Administrations and Health and

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<sup>43</sup> The budget to develop the GRECO Plan has reached 252 millions of euros in 2002 (11 percent higher than in 2001). The goal of integration of the foreign residents and their families place the second position regarding the assigned funds, with 73.547.423,43 euros (Ministerio del Interior 2002: 23)

Consumption. It has been criticism that, despite the formal regulation of the migratory flows and the integration of the foreign residents, the Program and the Law revolves around the control dimension and the Ministry of the Interior. NGOs and pro-immigrants associations have complained that more than 58 percent of the 72 proposed measures included in the Plan are being directly controlled and developed by that Ministry instead of other Departments, much more related to the integration of immigrants<sup>44</sup>. This has two principle causes, on one hand, the centralization of authority in matters of immigration presided by the Ministry of the Interior since the creation in May 2000 of the *Delegación del Gobierno para la Extranjería y la Inmigración*<sup>45</sup>, and on the other the fact that the GRECO Plan is not only concerned with the social integration of immigrants, but also with the control and prevention of migratory flows.

The anticipated proceedings in the second basis of the Plan “integration of resident foreigners and their families which contributes to the growth of Spain” demonstrate the importance which they have towards social integration as much with regard to rights –action 2.1– as to the legal and administrative situation of immigrants –actions 2.2 and 2.6– (See Table 5).

The government of the Autonomous Communities also have important powers in issues relative to the social integration of immigrants: health, education, social well-being, infancy, professional formation and work, etc, and many of them (Andalusia, Catalonia, the Canary Islands, Madrid, Murcia, The Balearic Islands...) have formed plans of action which are being developed and executed in the territories of these Autonomous Communities, and in several cases have even created within their territories their own administrative organs and immigration forums to deal with immigration. The same immigration Rule 864/2001 developing the Law 4/2000 foresees these actions when says that “the public administrations will develop their competences in those matters regarding the social integration of the foreigners” [*las Administraciones Públicas competentes en cada momento podrán desarrollar sus competencias en todas aquellas materias relacionadas con la integración social de los extranjeros en España*].

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<sup>44</sup> See ‘23 alternative initiatives on migratory policy’. Survey by Cardijn Association of Moroccan immigrants, Pro Human Rights Association in Andalusia and *Federación Andalucía Acoge*.

<sup>45</sup> The *Delegación del Gobierno para la Extranjería y la Inmigración* (belonging to the Ministry of the Interior) has replaced the Dirección General de Ordenación de las Migraciones (belonging to the Labor and Social Affairs Ministry) with the huge majority of its competences. In fact, the holder of this administrative organ, the *Delegado del Gobierno para la Extranjería y la Inmigración*, presides the Inter-ministerial Immigration Commission, the High Council for Immigration Policy and the Permanent Immigration Observatory, and moreover s/he nominates the candidate to the presidency of the Forum for Social Integration of the Immigrants.



**TABLE 5. GRECO PLAN. ACTIONS AND MEASURES INCLUDED IN ITS 2<sup>nd</sup> BASIC LINE: SOCIAL INTEGRATION OF IMMIGRANTS (...)**

ACTIONS	MEASURES
<b>2.1. To achieve full exercise of the rights to which immigrants are entitled</b>	<ol style="list-style-type: none"> <li>1. Providing medical care, with special attention to such specific groups as minors and women, as well as education in health and prevention of diseases</li> <li>2. Specific educational attention for immigrant students, to ensure their integration in the schools and Spanish society</li> <li>3. Regrouping Formalities for relatives of foreigner residents in Spain, as one of the most important mechanisms to achieve full integration in our society</li> <li>4. Constitutional religious freedom</li> </ol>
<b>2.2. Improvement of naturalisation procedures, by reducing formalisation terms</b>	<ol style="list-style-type: none"> <li>5. Inclusion of immigrants in the labour market, on equal conditions to Spaniards</li> </ol>
<b>2.3. Inclusion of immigrants in the labour market, on equal conditions to Spaniards</b>	<ol style="list-style-type: none"> <li>6. Facilitating their inclusion in the labour market when they have difficulties in labour insertion, by designing “integrated insertion itineraries” Design of “integrated insertion itineraries”</li> <li>7. Organization of the migratory movement within the territory of Spain to attend to uncovered offers of work and avoid mass flows of workers to areas where the job offer has already been covered</li> </ol>
<b>2.4. Shelter and attention for foreigners who are in vulnerable situations</b>	<ol style="list-style-type: none"> <li>8. Construction of Temporary Immigrant Processing Centres</li> <li>9. Creation of reception points in collaboration with Non Governmental Organizations</li> <li>10. Specific programmes for foreign youths</li> <li>11. Creation of specific immigration units in the National Police Force and Civil Guard</li> </ol>
<b>2.5. Coordinated action to execute integration measures with Public Authorities and NGOs</b>	<ol style="list-style-type: none"> <li>12. Constitution of the High Council for Immigration Policy</li> <li>13. Operation of the Social Integration Forum</li> <li>14. Agreements with Regional and Local Governments</li> <li>15. Aid for Non Governmental Organizations</li> </ol>
<b>2.6. Review of the existing administrative structure to attend to processing authorisations and permits applied for by immigrants</b>	<ol style="list-style-type: none"> <li>16. Promotion of the Immigration Offices as bodies specialised in processing all the administrative files</li> <li>17. Design of a sole computer and communications network throughout the Spanish territory</li> <li>18. Specific, ongoing training of the personnel</li> <li>19. Simplifying administrative procedures and improving co-ordination of the different processing (visas, permits, etc.)</li> </ol>
<b>2.7. Combating racism and xenophobia</b>	<ol style="list-style-type: none"> <li>20. Improvement in infrastructures, human and material resources of the State Security Forces and Corps</li> <li>21. Information campaigns on immigration as a positive phenomenon</li> <li>22. Encouragement of educational values to fight racism and xenophobia</li> </ol>

Source: Ministerio de Trabajo y Asuntos Sociales. Dirección General de Ordenación de las Migraciones 2003. *Anuario de Migraciones 2002*: 336-345.

Within the field of the Autonomous Communities we may encounter two kinds of action plans: one which only includes procedures aimed towards the immigrant (or recipient population), and another which goes further and directly recognize rights to the immigrants, such as the Decree 188/2001, of the 26<sup>th</sup> of June, concerning foreigners and their social integration in Catalonia, although there are also mixed plans concerned

with both situations. However, a plan is not a law, and its capacity to oblige public authorities to carry out these planned actions is not clear. In this sense, if the obligations which the autonomous community assumes are not clear, the immigrants will be seen to be unprotected when these anticipated procedures are not carried out, and they will not be able to claim for their real and effective performance by the Government. Evidently plans which directly acknowledge the rights of immigrants will be much more effective.

The legal and administrative situation of the immigrants must be also considered in this regard. The strict framework of the Law 4/2000 determines procedural possibilities held by the Autonomous Communities, who cannot award rights to immigrants if in doing so they are in breach of the Immigration law, that is to say they cannot acknowledge rights for illegal immigrants which are vetoed from them by the State law, especially when these are fundamental rights. These rights have to be developed through an organic law (as is the Law 4/2000). According to the Spanish Constitution, organic laws can only be approved by the national Parliament, requiring a special majority (2/3) in each Chamber.

However, not all rights included in the Law 4/2000 are of an organic nature, some are ordinary law and autonomous Communities can acknowledge rights not recognized for certain types of immigrants over issues of social services, housing or healthcare (for example in its decree of 2001 Catalonia recognizes the right to aid in matters of housing and full healthcare for registered illegal immigrants).

## **Conclusions**

After its consolidation as new immigration country, Spain has started to carry out, from the new Immigration Law 4/2000 –reformed in a restrictive way by Law 8/2000– a real immigration policy, global and coordinated. The social integration of the immigrants into a host society, which means the suppression of obstacles to equal rights and obligations between immigrants and native-born population, is one of the basic pillars on this immigration policy.

The Immigration Law includes various integration measures and a new bureaucratic organization to deal with the migratory phenomenon; however the most important factors for the social integration of immigrants, that are the rights granted to them and work, are strongly conditioned by their legal and administrative situation in Spain. To make these rights effective and make easier the immigrants' access to a legal

situation, the State Government –together with some governments from the Autonomous Communities and Local authorities– have designed integration plans or programs which set and co-ordinate the measures, actions, and public and private organizations which aim towards the integration of immigrants. These three elements, rights, legal status and plans, are linked to each other.

We can compare the process of social integration with the steps of a stairs. The different administrative situations are the steps, which are conformed by the status of rights and freedoms granted to the immigrants. On the first step, the narrowest one, we find the irregular immigrants in situation of ‘presence’. On the last step, the widest one, we find the permanent residents whose status of rights is very close to Spanish population.

Nowadays, “residence” is replacing citizenship as the nexus between the individual and the State which allows the granting of rights to the immigrants. However, the restrictive Spanish policy and legal regulation on the immigration issue has suppressed the bridge towards the ‘residence’ step; apart from reporting that there will not be more ‘extraordinary’ legalization programs, the Spanish Government have thought about suppressing the ‘permanent regularization’ from law as an access to legality<sup>46</sup>. Considering that massive deportations can not solve the illegal immigration issue the number of irregular immigrants will keep rising and rising.

To avoid an uncontrolled increase of irregular immigration it is necessary to introduce flexible legal instruments which make the public integration policies and plans become the bridge towards the “residence” situation and the social integration of immigrants. Improvements in this sense have been introduced in the labor quota system to favor the legal entry of new immigrants, as the validation of the visa along with the labor contract as work permit –to avoid the obstacles of the slowness of the Spanish administrative system–, or the visa to look for a job granted in the case of the domestic service workers. Regarding the immigrants already in Spain, the “permanent regularization” and the rest of the ways out from irregularity which give them access to the rights must be maintained and encouraged.

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<sup>46</sup> Ana Del Barrio “El Gobierno estudia suprimir la regularización por arraigo”. *El Mundo* (Madrid), June 5, 2002.

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## INDEX

<b>Introducing Spain: the change from sending to recipient country and the change from foreign to immigration policy.....</b>	<b>2</b>
<b>Immigration policy bases: prevention and control on migratory flows .....</b>	<b>6</b>
<b>The new perspective: social integration of immigrants in the Spanish immigration policy .....</b>	<b>7</b>
Integration measures in the Immigration Law.....	11
The legal and administrative situations of the immigrants.....	14
Integration via the labor market and legal situations.....	15
<b>Integration factors. The legal-administrative status and the rights of the immigrants .....</b>	<b>18</b>
The registration in the municipal padrón and the access to certain essential rights by irregular immigrants .....	22
Renewed residence permit and right to family reunification .....	25
Permanent residence and citizenship .....	26
<b>Integration plans, rights and legal status of immigrants .....</b>	<b>29</b>
<b>Conclusions .....</b>	<b>33</b>