

Spain, a danger to migrants

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Flowers on the beach in memory of people who died in the sea, 7 February 2020, left by family members and activists of a transnational network born in Morocco that brings together the mothers of the migrants who disappeared at the frontiers of the world |

Photography: [Alessio Mamo](#)

Immigration has been at the heart of political and social debate for many decades. Even so, not only has no progress been seen in increasing awareness and protection of migrants' rights but, according to United Nations (UN) reports, violations of the rights of migrants and refugees have multiplied at Europe's borders.

Organisations that work with migrants and refugees warn of increasing violations of their human rights at European borders, with cases that have led to the loss of human lives. These abuses include rejection, threats, intimidation, violence, humiliation, practices such as setting boats with people still in them adrift or turning them back out to sea without any consideration for their lives, and illegal repatriations to their countries of origin, even when this is contrary to international law and puts their lives at risk. This flies in the face of the Agenda 2035 for facilitating human mobility, which calls for respect for human rights and due process at border controls.

State racism

If we analyse the political discourses, we find that migration has become a tool for winning votes; a discourse that both the right and the left exploit for electoral gain instead of

moving towards an anti-racist political future that guarantees a decent, safe life for those who have decided to seek new opportunities far from home.

This remarkable inefficiency in advancing the rights of migrants raises doubts about the veracity of the political discourses and the way in which the issue is being addressed.

It is already generally accepted that the right-wing and far-right parties systematically dehumanise and use violent and openly racist language towards racialised and migrant communities. But this structural racism is not to be attributed solely to the far-right parties; we need to ask what the so-called progressive parties have done, how they are helping to feed this hate speech and what role they have played in this violation of rights and in this epidemic of social racism.

When experts and activists talk about racism, people tend to think of violent, overt racism. However, the focus on immigration from a purely economic standpoint, as if migrants were mere production units, and the use of totally utilitarian arguments go unnoticed. There are even people, who define themselves as “anti-racist”, who routinely use this type of reasoning which, far from remediating and raising awareness, only serves to feed dehumanisation.

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There is no doubt that immigration has a positive economic impact - we, migrants and the descendants of migrants, contribute and pay taxes like everyone else - but we cannot focus on productivity when it comes to defending human rights, because that is a human and structural issue.

There are many reasons why people leave their countries of origin, for example, to escape persecution, improve their quality of life, flee the consequences of climate change or reunite with their families. We must not forget that behind the economic figures, there are people.

El Tarajal, neither forgotten nor forgiven

It has been almost a decade since the tragedy at El Tarajal. Nine years have passed since at least 14 people died: Yves, Samba, Daouda, Armand, Luc, Roger Chimie, Larios, Youssouf, Ousmane, Keita, Jeannot, Oumarou, Blaise and another young man - whom institutional racism has denied the right to be identified - as a result of the use of riot control equipment and rubber bullets and the failure of the Civil Guard to provide assistance in order to prevent them from reaching dry land.

The victims' families have been waiting nine years for justice. However, Spanish (in)justice has decided to shelve the case on several occasions and allow those responsible to live in impunity.

Ever since that 6 February 2014, activists and human rights organisations march through the streets of Ceuta in an event known as the March for Dignity, to demand memory and justice and denounce the violations and abuses that continue to take place on the borders.

Patricia Fernández, recipient of the Human Rights Award in the national category in 2022 and a lawyer specialised in childhood and social exclusion situations at Coordinadora Barrios - one of the associations that filed a private prosecution against 16 Civil Guards for the alleged crimes of manslaughter by gross negligence and refusal of assistance on the beach of El Tarajal - has been working on the case since the beginning and has filed an appeal once again, this time to the Constitutional Court. As reported by *El Confidencial* last July, this appeal has already been admitted.

At the round table of the 10th March for Dignity, Patricia Fernández said: "We will only know the reality of the southern border if we preserve the memory, because criminals kill and then play down what has happened, hermeneutic death", and she also recalled: "Today's Europe is born of the experience of the concentration camps, which started as detention camps, then became concentration camps and, finally, death camps."

The Melilla massacre

The massacres carried out by the Spanish authorities in Melilla are the result of a policy that outsources frontiers, violates human rights and attacks anyone who seeks refuge. This geopolitics is responsible for the human tragedies at the borders and has exposed the acts perpetrated by the Spanish government, and especially by the Ministry of the Interior, led by Fernando Grande-Marlaska.

According to the Spanish government, there are safe, legal ways to seek asylum in Melilla, with an asylum office at the border. However, in practice, there is no effective way that refugees can ask for international protection. In fact, the report by the Council of Europe's Commissioner for Human Rights stressed that it is not true that Spain allows people to apply for asylum at the border with Melilla and stated that the only way to cross the border and reach Spanish territory is "by swimming or jumping over the fence".

According to Amnesty International, during 2023, only 60 migrants entered Melilla and, of these, only 28 entered by land. According to information provided by the Ministry of the Interior, no asylum applications have been registered at the office in Beni Ensar since June 2022.

On 24 June 2022, about 2,000 people, most of them of Sudanese descent, attempted to cross the border between Morocco and Spain via the Melilla border crossing. According to official Moroccan figures, 23 people died. However, the Moroccan Association for Human

Rights raises the figure to 37 deaths and more than 76 people missing after the intervention of the Moroccan and Spanish police.

According to the Ombudsman, at least 470 people were deported forcibly and immediately back to Morocco by the Spanish police. Red Cross ambulances were not called, even though hundreds of people were injured.

Subsequently, 500 people were taken by bus to isolated parts of Morocco, where they were robbed of their belongings and left on the roadside without access to medical care. Some of them would have been taken against their will and they would have been driven more than 1,000 kilometres from the border.

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Amnesty International says that total deaths could exceed 100. According to witnesses, some victims were taken by bus without receiving any type of medical care, despite some having serious injuries. During transport, some people died and others were abandoned without any consideration for their state of health.

One year after the Melilla massacre, and even though the reports assure that the actions effectively took place on Spanish territory, neither the most progressive Government in the history of Spain nor the Ministry of the Interior nor the police authorities of either country have accepted any responsibility, despite the dozens of people who lost their lives and the hundreds of illegal returns that have taken place and which have been denounced by activists, human rights organisations and the Ombudsman.

Centres for unaccompanied foreign minors

The violation of the rights of foreign minors at the reception centres is another example of structural racism. Instead of finding protection and support, the children who come to Spain unaccompanied by family members are faced with an overwhelming reality of violations of basic human rights at the reception centres.

Foreign minors who do not have any family members in Spain are one of the most vulnerable population groups. Many face different forms of institutional violence, including discrimination and lack of legal assistance, decent accommodation, a support network or access to education and health care. Language barriers, negligence in processing documents and red tape can prevent these young people from accessing essential services.

Segregation of centres

When they arrive in Spain, foreign minors pass through detention centres for foreigners (CIE), police stations - where they can spend more than 72 hours in the cells - and emergency centres, where they wait to undergo age determination tests. The procedures for verifying the age of foreign minors arriving alone in Spain are governed by Article 35 of the Foreigners Act, and should only be used when the child or adolescent has no documentation.

Despite this, José Miguel Sánchez Tomás, an expert in criminal law and a lawyer at the Constitutional Court, reports: "In Spain, this procedure is carried out on some minors even when they have documentation." The Supreme Court ruling states that if a minor has a passport or an equivalent identity document that proves that they are under age, the minor cannot be considered undocumented for the purposes of carrying out supplementary age determination tests.

However, in his 2019 annual report, the Ombudsman reported that numerous organisations have said that age determination tests were being performed on both documented and undocumented young people.

For its part, following complaints from affected young people, the UN Committee on the Rights of the Child concluded that the procedure for determining the age of unaccompanied foreign minors in Spain violates their rights and is contrary to the interim measure requested by the United Nations to take them to juvenile centres; furthermore, it ruled that Spain "must provide children with an effective remedy for the violations suffered, including offering them the opportunity to legalise their residence status in Spain".

The centres for foreign minors are exclusively for foreign juveniles. They are not taken to public centres for Spanish-born minors. Consequently, these centres, almost all of which are run by private foundations, suffer from overcrowding, with insufficient space and suitably qualified staff to meet the minors' emotional and psychological needs.

Cases of abuse and mistreatment have been reported in the centres for foreign minors, which endanger the physical and emotional integrity of the minors who arrive there

Another issue of serious concern is the existence of violence and abuse within the centres. Cases of physical mistreatment, sexual harassment and psychological abuse have been reported; these abuses not only endanger the minors' physical and emotional integrity but also undermine their trust in the institutions that are supposed to protect them. The protection of the rights of foreign minors is an internationally shared responsibility.

The UN Convention on the Rights of the Child clearly sets out the rights and protections to be guaranteed to children.

Illegal deportation of minors from Ceuta

On 10 August 2021, the Ministry of the Interior ordered the repatriation to Morocco of Moroccan minors who had entered Ceuta. The order was issued on instructions given by the Minister himself, Fernando Grande-Marlaska, as stated in the letter he sent to the Government Delegation in Ceuta. Instead of ensuring adequate protection and care for the minors, there were alarming reports of children and adolescents being illegally repatriated without following the procedures established by international law and human rights.

These young people were deported rapidly, with no opportunity to request asylum or protection, endangering their lives and rights. Subsequently, WhatsApp messages surfaced about the illegal deportation which accused the former vice-president Carmen Calvo, her chief of staff and Fernando Grande-Marlaska's Ministry of the Interior of having ignored the proper procedure for the repatriation of minors.

"A letter to the Government Delegation will suffice. Morocco has said that they must come back and we must invent the procedure. If you ask for repatriation, we can bend the Public Prosecutor's Office," wrote Isabel Valdecabres, at that time chief of staff for the former vice-president Carmen Calvo, to the former vice-president of the Autonomous City of Ceuta, Mabel Deu, currently being prosecuted for the deportation of minors.

This situation triggered outrage and protests by many activists, child protection institutions and human rights organisations.

Legalisation of migrants

The COVID-19 pandemic highlighted the challenges faced by migrants and refugees around the world. In this context, the failure to legalise or recognise the rights of migrants in Spain constituted a serious violation of human rights.

The pandemic has impacted disproportionately on migrants, who often find themselves in vulnerable and precarious situations. This includes a lack of access to healthcare and financial assistance and refusal to release migrants from the CIE, where COVID-19 could quickly spread.

International agreements and treaties, such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, stipulate that human rights are universal and inalienable, and applicable to all persons without discrimination. Failure to recognise migrants' rights during a pandemic is a breach of these international treaties and undertakings.

The nationwide movement Regularización Ya (Legalisation Now), composed of groups and

organisations of migrants and racialised people organised politically around the demand for social, political and economic rights for migrants within Spain, was formed in March 2020 to achieve full rights for migrants. After the Spanish government rejected the petition, the platform organised itself and collected more than 600,000 signatures to convert the proposal into a popular legislative initiative, which was presented to the Lower House.

More than three years after the initiative, the 800+ organisations and 600,000+ people without legal residence are still waiting for a political response.

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Institutional and structural racism acts systemically to aggravate and create difficulties for the lives of migrants and racialised people. This translates into bureaucratic hurdles, consistently understaffed and under-resourced government services for foreigners, segregation in schools and centres for foreign minors, lack of access to healthcare, racism and social rejection, etc.

It is patently obvious that this system operates in Spain. The progressive policies of some left-wing parties are not only insufficient, but also form part of this racist structure. This structure is sustained by the silence of the people who are part of this State and the lack of commitment.



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