

# Foreign Prison Population in the Spanish Prisons

# Evolution

Year	Foreigner	Percentages
1996	7.263	17,3
1997	7.536	17,6
1998	7.850	17,7
1999	7.900	17,9
2000	8.990	19,9
2001	11.095	23,3
2002	13.413	25,9
2003	15.205	27,1
2004	17.302	29,1
2005	18.616	30,5
2006	20.643	32,2
2007	22.977	34,2
2008	26.201	35,6
2009	27.162	<b>35,7</b>
2010	26.315	35,6
2011	24.502	34,8
2012	22.893	33,5
2013	21.116	31,6

**September 2014: 20.011 foreign inmates → 30'04% of the total prison population.**

# Nationalities

Nationality: original country	Number of foreigners of each nationality	Percentage of the foreign prison population
<b>Morocco</b>	4.343	<b>26'5%</b>
<b>Romania</b>	1.941	<b>11'8%</b>
<b>Colombia</b>	1.910	<b>11'6%</b>
<b>Ecuador</b>	836	<b>5'10%</b>
<b>Dominican Republic</b>	767	<b>4'68%</b>
<b>Algeria</b>	492	<b>3'0%</b>
<b>Portugal</b>	461	<b>2'81%</b>
<b>Bolivia</b>	376	<b>2'29%</b>
<b>Nigeria</b>	358	<b>2'18%</b>
<b>Venezuela</b>	<b>243</b>	<b>1'48%</b>

# Offences

<b>Offences committed by foreigners</b>	<b>Percentage of the total offences committed by foreigners</b>
<b>Offence against property</b>	<b>28,606%</b>
<b>Offence against Public Health (Drugs-related offences)</b>	<b>26,034%</b>
<b>Offence against the persons</b>	<b>20,791%</b>
<b>Gender based Violence Offence</b>	<b>7,217%</b>
<b>Offence against sexual freedom</b>	<b>3,809%</b>
<b>Crimes against road safety</b>	<b>2,878%</b>
<b>Economics and financial crimes</b>	<b>2,142%</b>
<b>Other</b>	<b>7,768%</b>
<b>Total:</b>	<b>99'243%*</b>

# Gender

<b>Gender Distribution</b>	<b>Women</b>	<b>Men</b>
<b>Foreign prison population</b>	<b>7'65%</b>	<b>92'34%</b>
<b>Total prison population</b>	<b>7'55%</b>	<b>92'44%</b>

-In mid-2014, there were 20474 foreigners , which 1568 women

- This distribution is stable through time...

# Remand prison population

<b>Prison population in Spain (May 2014)</b>		
<b>Total population</b>	<b>66.851 inmates</b>	
<b>Foreign population</b>	<b>20. 639 inmates</b>	<b>30'87% of the total prison population</b>
<b>Total remand population</b>	<b>8.944 inmates</b>	<b>13'36% of the total prison population</b>
<b>Total foreign remand population</b>	<b>4.459 inmates</b>	<b>49'85% of the remand prison population</b> <b>21'6% of the foreign prison population</b>

# Legal specificities concerning Foreigners in the Spanish executional law

- **-Penitentiary General Organic Law, developed in the Prison Regulations.**
- **-General principle of Equality of rights and duties:**
  - According to art. 3 LOGP, “The penitentiary activity will be exercised in accordance with, in all cases, the human personality of the prisoners and the rights and legal interests of those don’t affected by the sentence, without establishing any difference based on race, political opinions, religious beliefs, social status or any other circumstances of a similar nature”.

# Legal specificities concerning Foreigners in the Spanish executional law

- -Specific provisions about foreigner in our legislation:
  - Admission moment
  - Expulsion or deportation order
  - Communications and visits
  - Information
  - Planning of activities
  - Conditional release for foreigners



# Problems in practice

- **Approximately 40% of the foreign prison population haven't residence permit:**
  - -either because they are undocumented,
  - -or because they had residence permit but they've lost in the prison (their permits have expired and they couldn't renew it)
  - -or because after committing an offence they have been the subject of an expulsion order.
- We have a **very high rate of foreigners under an expulsion order in prison** → we cannot know the exact figures

# What's the effect?

- They are “blocked” in prison...
- The consequences:
  - -Foreigners under an expulsion order:
    - No exit permit
    - Risk of escape 5 times higher than in the case of a national inmate
    - The technical team must evaluate the risk of no re-imprisonment, no return to the prison... so the risk is too high to be assumed by the technical officers
  - -The **objective of an exit permit is the preparation for the life in freedom**, so it loses its purpose, its sense...

# This phenomenon causes a lot of negative effects

- **In relation with the inmates:**
  - -They know that no matter what they do, they may not be allowed to go out...
  - -If for the prison population as a whole the conduct and the behaviour are determinants, are decisive, to get an exit permit and to advance in their reinsertion process, for the foreigners undocumented or in an irregular situation there is no hope...
  - -This has a devastating effect, because the human being need to have objectives, need to have concrete goals.
- In our system the **first step in order to have access to the semi-open regime** (this is our “third grade”) is to achieve an **exit permit...**
  - **Our system has three grades and conditional release.**

# This phenomenon causes a lot of negative effects

- **In relation with the inmates:**
  - **-Secondary effect:** we have more and more foreigners in the “conflict departments” (Department for sanctioned inmates)
  - -When the foreigner inmate realize that no matter what he does, even if he has a very good behaviour and follows all guidelines indicated by the officers, he cannot progress... (he may not have an exit permit... so he may not have access to the third degree, and the access to the conditional release is closed for him..) they become **discouraged**, they lose interest in the activities, in the treatment programs...
- **Thus, in the case of a foreigner, the last day of his sentence the police take him from the prison and send him to his original country.**

# This phenomenon causes a lot of negative effects

- - In relation **with the professionals**: they also don't have any objective
  - -An educator, social worker or psychologist who knows that no matter what he does, no matter how hard he works, his inmates, the persons for whom and with whom he works each day , cannot have any opportunity of reintegration...
  - →**can't do his work with motivation.**
  - -The situation of some groups of foreigners **provoke a low motivation in the prison staff and technical officers**, who can't find any sense of his work, they lose the purposes of his work.

# What can we do?

- We use a “**repatriative measure**” → repatriation or expatriation measures → measures seeking the resettlement of the foreigners, who can't be reinserted in our society, in their original countries.
- We have **to study each individual case**, and search the best option for each case... → the measure which allows the best reintegration...
  - -According to the length of the sentence, the time already served in prison, his nationality, his behavior...

# “Repatriation” measures...

We have several options in order to send a foreign inmate to his country:

- **-The judicial expulsion**
- **-The conditional release in the original country**
- **-The transfer of sentenced persons**

This is the **actual policy on foreigners in the Spanish prisons...**

# Policy on foreigners in the Spanish prisons

- → The **real reinsertion**
- → The **expatriation or repatriation of the sentenced foreigners** who, while serving their sentences in the Spanish prisons, **cannot be reinserted in our society**, because they are undocumented, or because after committing an intentional offence with a penalty longer than one year of prison they are either under an expulsion order or they cannot get the residence permit until they cancel the criminal records etc...
- →The majority of the foreign inmates is in this situation.



# Policy on foreigners in the Spanish prisons

- → This fact causes problems with the main objective of our Penitentiary Institution: the re-education and reinsertion.
- → The reinsertion is postponed until a repatriation measure can be implemented.
- Actually, exist a kind of “de facto” discrimination toward foreigners in prison:
  - According to the reasons outlined, finally, we tend to use the existing resources with the national inmates who can enjoy exit permits, who are going to work in our society, who are going to live in Spain...

# Conclusions

- The situation of some groups of foreigners is very difficult
- In the practice, they haven't got the same opportunities like the national prisoners.
- We have to work in order to promote the real equality in the reinsertion opportunities
- We have to enhance the process of the repatriation measures in order to adapt these measures to the personal situation...
  - Easier proceeding
    - Shorter time, less delay...

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The end....

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