

Pro Igual

Centro de Investigaciones en Derechos Humanos

NO a los Centros de Internamiento para Extranjeros (CIEs)
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Human Rights Violations of Migrant Women in Spain: Detention in Centros de Internamiento de Extranjeros (CIEs)

A Joint Submission to the UN Commission on the Status of Women
by Pro Igual and Ferrocarril Clandestino

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About author NGOs

PRO IGUAL is dedicated to the defense of human rights of the most vulnerable in society through the use of legal empowerment and advocacy. More information about our work is available on the website: <http://proigual.org/>.

Ferrocarril Clandestino is an NGO network of support and common action aimed at overcoming injustice and violations of human rights of migrants whom Spanish and European migration legislation and policy put in the situation of extreme vulnerability. More information is available on the website: <http://cerremosloscies.wordpress.com/>.

Executive Summary

There are no data on undocumented migrants in Spain, men or women; however, some estimates put the overall number at up to 250,000.

In recent years, the attitudes towards and treatment of foreigners in Spain have worsened. Reflecting this hardened stance on immigration, the police regularly conduct round-ups based on controversial practices of ethnic profiling, when individuals are singled out because of their skin color and/or appearance and asked for identification. Considerable numbers of undocumented migrant women have been detained as a result of such ethnic profiling.

The absence of official statistics concerning detention and expulsion of migrant women complicates the analysis, but it appears that migrant women are specifically targeted and treated more harshly than migrant men and are deprived of liberty for mere administrative infractions, such as not having paperwork in order.

Centros de Internamiento de Extranjeros (CIE) where undocumented migrants, men and women, are detained are prisons in all but a name. Both governmental institutions and civil society have decried the conditions and violations of human rights in CIEs, ranging from physical and psychological maltreatment and discrimination to denial of legal counsel and healthcare.

While both men and women often face violations of their fundamental human rights in CIEs, female migrants face a number of specific concerns, such as: gender discrimination and sexual harassment; treatment of pregnant and breastfeeding women; separation of mothers from minor children; lack of access to medical care and lack of adequate nutrition; lack of specific assistance for victims of human trafficking, among others.

Based on those findings, Pro Igual and Ferrocarril Clandestino have put forth the following recommendations for the Spanish authorities regarding detention of migrant women in CIEs.

Recommendations

- The Spanish authorities should collect disaggregated data on migrant women in irregular administrative situation.
- The Spanish authorities should permit human rights monitors and NGOs to enter CIEs and privately interview inmates in order to document their situation.
- All CIE personnel must be required to wear visible identification badges and sanctioned for failure to comply.
- Spanish authorities must investigate all allegations of ill-treatment of inmates by CIE guards and prosecute those found responsible for human rights violations and sexual harassment.

- All CIE inmates should have access to an independent attorney, with the help of an interpreter as necessary.
- The Spanish authorities should declare a temporary moratorium on expulsions pending the review of the CIE inmates' cases.
- Deprivation of liberty of migrants in irregular administrative situation should be avoided and limited to genuinely exceptional cases.
- All CIE inmates should have access to medical assistance as necessary, and women should have access to gender-sensitive care; translation services should be available to help inmates communicate their health concerns.
- All CIE inmates, and especially those with chronic health problems, should be provided with sufficient and adequate nutrition.
- Pregnant and lactating women and women with young children should under no circumstances be detained in CIEs or separated from their children and families.
- Suspected victims of human trafficking should receive necessary legal, medical and other assistance and granted residence on humanitarian grounds.
- Spanish authorities should decisively halt ethnic profiling practices by the police and law enforcement.

Background

According to the latest statistical information,¹ foreigners constitute over 12% of the total of 46 million inhabitants of Spain; women account for a slightly lesser share than men. For obvious reasons, there are no data on undocumented migrants in Spain, men or women; however, some estimates put the overall number at up to 250,000. At the same time, owing to an ongoing economic crisis, the total immigrant population in Spain has registered its first decline since 1998.

In recent years, the attitudes towards and treatment of foreigners in Spain have considerably worsened. This has been manifested in hardened political rhetoric against immigration from both the extreme right and centrist parties. There has also been an increase in number of hate speech and hate crimes against members of migrant communities, as well as against persons perceived to be non-Spanish: national minorities (especially Roma) and Spanish citizens of foreign origin or/and of non-European appearance.²

Reflecting this hardened stance on immigration, the police regularly conduct round-ups based on controversial practices of ethnic profiling, when individuals are singled out because of their skin color and/or appearance and asked for identification. Scores of undocumented migrant women have been detained specifically as a result of such ethnic profiling. This practice has been continued following the Circular 2/2012 On identification of citizens, of 16 May 2012, of the Directorate General of the Police, despite criticism from domestic and international nongovernmental organizations (NGOs) and intergovernmental monitoring bodies.³

One of the big challenges for analyzing the abuse of deprivation of liberty of migrant women is the absence of official desaggregated statistics concerning their detention and expulsion. Yet considering that an overwhelming majority⁴ of migrant women are detained for mere administrative infractions, such as not having paperwork in order, rather than serious crimes, it can be concluded that migrant women are specifically targeted and treated much more harshly than migrant men. In the course of detention, migrant women in CIEs are also particularly vulnerable to violations of their basic human rights.

¹ Source: http://extranjeros.empleo.gob.es/es/Estadisticas/operaciones/con-certificado/201109/Principales_Resultados_30092011.pdf.

² See Pro Igual reports on hate crimes in Spain, available on: <http://proigual.org/projects/reports-publications/hate-crimes-in-spain-reports/>.

³ See Martínez Escamilla, Margarita. [Mujeres en CIE: género, inmigración e internamiento](#). Madrid, 2011. (Hereafter, “Mujeres en CIE”).

⁴ Id.

What are CIEs?

Centros de Internamiento de Extranjeros (CIEs) where undocumented migrants, men and women, are detained are prisons in all but a name. There are at present ten CIEs in Spain with capacity to hold c. 2500 persons simultaneously. There are no data as to how many people are actually held in CIEs, or how many women, but according to some estimates about 1000 foreigners are ingressed in CIEs every month and about half of those end up being expelled from Spain.⁵ The Ministry of Interior's data for 2012 indicate that the total of 16,401 persons were repatriated from Spain, but there is no information about the numbers for CIEs.⁶

The CIEs have long attracted harsh criticism from both governmental institutions, such as the Ombudspersons and Justices for Democracy, and civil society for flagrant violations of fundamental human rights of detainees. The alleged violations range from deprivation of liberty without due process, to physical and psychological maltreatment and discrimination, to denial of medical care, among others. Some organizations have documented appalling material conditions inside the CIEs – many of which are former penitentiary institutions – some failing the minimal standards of hygiene and habitability.⁷

Human rights NGOs report that CIE inmates are routinely subjected to racial harassment and even physical abuse. Guards allegedly try to intimidate them and to make an example of their situation to deter other illegal migrants.⁸ Pushing, hitting, and insulting are very common. The guards typically do not wear any badges and cannot be identified by name in complaints.⁹

However, inmates are overwhelmingly unaware of their rights, why they are detained, or procedures to complain about maltreatment. An estimated 25% do not know Spanish and thus would not understand information even if it were provided to them.¹⁰ The CIE inmates usually have no access to legal counsel. Often, they do not have means to make or receive a phone call—due to “high costs” for the system—and are effectively kept incommunicado. Detainees often do not know if they see their families, or will be deported straight away, and many are unaware, until the moment of expulsion, something as fundamental as the date, the city, and in some occasions even a country to which they will be deported.¹¹

⁵Pueblos Unidos. [Atrapados tras las rejas. Informe 2012 sobre CIEs en España](#). Madrid, 2013. (Hereafter, “[Atrapados tras la rejas](#).” 2013).

⁶ Ministerio del Interior. El Balance 2012 de la lucha contra la inmigración irregular. Madrid, 2013.

⁷ See: Comisión Española de Ayuda al Refugiado (CEAR). [Situación de los Centros de Internamiento de Extranjeros en España](#). Madrid, 2009. (Hereafter, “[CEAR report](#), 2009”).

⁸ See: http://www.antifeixistes.org/3469_tortures-immigrants-valencia-comissio-dajuda-refugiats- Cear-destapa-abusos-contra-estrangers-reclusos-centres-dinternament.htm.

⁹ [CEAR report](#), 2009.

¹⁰ [Atrapados tras la rejas](#). 2013.

¹¹ Mujeres en CIE, 2011.

Inmates in the CIE “Zapadores” in Valencia stated that because there are no toilets in the cells and no intercom through which they could request to be taken to the centre’s bathroom, they were forced to use empty water bottles. In many cases, inmates had no change of clothes and had to wear what they had on at the moment of arrest for the duration of their detention; it usually takes between 20 and 40 days to process deportation, even though detention can last up to 60 days. Even those with serious health problems reported not getting any medical assistance or relief. NGOs estimate that 97% of detainees do not receive medical examination within the first 24 hours of arrival, despite this being stipulated in the law.¹²

Appalling conditions and ill-treatment have resulted in a hunger strike in the CIE “Zona Franca” in Barcelona in 2010.¹³ After these events came to light, inmates who talked to NGOs and whose testimonies were particularly damning, were quickly expelled from the country, and NGOs did not get another opportunity to interview them or initiate proceedings on their behalf. Extremely bad conditions in CIE in Malaga led to its closure.¹⁴

Furthermore, NGOs attempting to enter CIEs to interview the inmates and document the conditions frequently themselves face resistance from the CIE administration and guards. For example, some CIEs request prior written requests for permission to visit, stating names of inmates whom NGOs wish to interview. The guards are often present during NGO interviews with the inmates, preventing a confidential conversation. In some occasions, the CIE authorities threatened consequences for women who would complain.¹⁵

Profile of women detained in CIEs

Spanish legislation provides¹⁶ that deprivation of liberty is a cautionary measure that must be applied in exceptional cases and must respect the principle of proportionality. Fines are a preferable penalty for administrative infractions. However, there is an apparent abuse of this measure with regard to migrant women. The police insist on detention in cases where detention should not be granted, and unfortunately neither judicial nor prosecutor’s control has shown sufficient to prevent the abuse of detention applied to migrant women.¹⁷

¹² [CEAR report](#), 2009.

¹³ See: http://www.canalsolidario.org/noticia/los-inmigrantes-en-huelga-de-hambre-del-cie-de-barcelona-expulsados-del-estado/23130?utm_medium=email&utm_campaign=boletin&utm_source=diarioCSO.

¹⁴ [Boletín Oficial de Estado por el que se aprueba el cierre del Centro de Internamiento de Málaga](#). Enero 2013.

¹⁵ Women’s Link. [Mujeres en los CIEs: Realidades entre Rejas](#). Madrid, 2012. (Hereafter, “[Realidades entre Rejas](#). 2012”).

¹⁶ Ley Organica 4/200 de 11 enero, sobre Derechos y Libertades de los Extranjeros en España y su Integración Social, modificada por las LO 8/200, 14/2003 y 2/2009 (LOEx), art. 53. 1. a.

¹⁷ Spanish Constitutional Court has ruled in Case 115/197 that the detention of foreigners is compatible with the Consitution due to a supposed oversight of a judge granting the detention warrant.

The following are the typical categories of migrant women detained in Spanish CIEs:

1. Women who merely committed an administrative infraction of not having their paperwork in order and often victims of poverty and precarious living (up to 94% of the detainees in CIE “Aluche” in Madrid).
2. Victims of human trafficking who under the Spanish legislation should be subject of legal protection and should not be expelled. However, NGOs visiting CIEs found that a number of trafficking victims and witnesses in the ongoing investigations were not only detainees in CIEs but also were about to be deported.
3. Women eligible for protection under international law (e.g. refugees or asylum seekers, for example those fleeing forced marriages or sexual abuse): possibly as many as 1 in 4, or 25% of all detainees.¹⁸
4. Women eligible for residence authorization on the grounds of family reunification and/or social integration (i.e. women who have been brought to Spain at a very early young age and have no real connection to their country of origin, and/or who are mothers to Spanish citizens¹⁹).

A noteworthy fact is a considerable over-representation in CIEs of migrant women who were engaged in prostitution, whether voluntary, or forced as trafficking victims, something that in itself should warrant an internal investigation as to whether these women are an easy target and subject to overproportionate stop-and-search practices by the law enforcement.

Women’s rights violations in CIEs

While both men and women often face violations of their fundamental human rights in CIEs, female detainees face a number of specific concerns, such as: gender discrimination and sexual harassment; treatment of pregnant and breastfeeding women; separation of mothers from minor children; lack of access to medical care and lack of adequate nutrition; lack of specific assistance for victims of human trafficking, among others.

Women and men are physically segregated in the CIEs for the reasons of “security.” Such strict separation on occasions leads to deteriorating services for women. For example, women and men are in theory allowed to go out to an outside courtyard, at different hours, but when there are very few women they get a very limited time outdoors. In the CIE in Las Palmas, for example, at some point there were just a few women inmates, and they did not go outside altogether, staying instead in de facto isolation indoors for weeks.²⁰ Despite the

¹⁸ [CEAR report](#), 2009.

¹⁹ The jurisprudence of the European Court of Justice, specifically the *Case of Ruíz Zambrano*, affirms that the expulsion of parents violates the rights of the underage EU citizen who enjoys, *inter alia*, the right of free movement and free choice of residence. Also, the jurisprudence of the European Court of Human Rights affirms that the right to private and family life, stated in Article 8 of the European Human Rights Convention, puts limits on the States’ right to carry out expulsion.

²⁰ [Realidades entre Rejas](#). 2012.

existence of cleaning services in CIEs, women inmates are often responsible for cleaning their premises, something that is not expected of male inmates.²¹ In sum, these conditions for women inmates of CIEs are admittedly inferior than even in actual female prisons.

In the CIE “Zapadores” in Valencia, several pregnant women have been detained, separated from their spouses and provided with virtually no medical attention. The only care pregnant women were receiving was usually from fellow inmates. Some women have been expelled while being heavily pregnant. The partner of one of the pregnant detainees, separated from her, started cutting himself. He was taken to the hospital where his cuts were stitched, then returned to an isolation cell and the next day deported, as was his partner on the sixth month of pregnancy. Neither of them received a prior notice of the pending deportation, in contravention of the existing regulations.²²

NGOs also reported a case of a Bolivian woman, a long-term resident in Spain, who was stopped in the street, detained in the CIE in Valencia and separated from her one and a half month old daughter whom the woman was still breastfeeding. The baby stayed in her father’s care but another caretaker had to be hired to look after her. While receiving family visits, and depending solely on the discretion of the guard whose shift it was, the baby was allowed to be passed through the glass barrier to the mother so that the baby could be held for the duration of the visits (c. 10 minutes per visit). After 26 days in detention the woman was finally released, but given her inability to regularly breastfeed she lost her milk.²³

In CIE in Algeciras NGOs reported that migrant women detained there, including pregnant women, complained about insufficient food, absence of medical care or testing, verbally abusive treatment by the guards, and inability to obtain legal assistance to apply for asylum or to challenge detention. Many could not complain or ask for assistance due to the language barrier. Authorities claimed they were not aware there were any pregnant detainees.

Among the detainees there were also several (suspected) human trafficking victims, who may have been placed among other detainees collaborating in their exploitation and thus under their control. Such victims received no psychological counselling or other assistance that should have been offered to them, and some were about to be deported.²⁴

There have been also allegations of sexual harassment of women detained in CIEs. The majority of guards across all CIEs are male, and many allegedly comport themselves in an inappropriate manner, making indecent comments or unwanted physical contact, whether touching or pushing female inmates. In one reported case, a Moroccan woman in the CIE in Valencia complained of sexual abuse, but was deported before NGOs could follow up on the case on her behalf.²⁵

²¹ [Realidades entre Rejas](#). 2012.

²² See: <http://ciesno.wordpress.com/2013/05/18/interior-encierra-en-zapadores-a-mujeres-embarazadas-lactantes-y-personas-con-menores-a-su-cargo/>.

²³ Id.

²⁴ [Realidades entre Rejas](#). 2012.

²⁵ Id.

There is an insufficient regard to feminine hygiene and health needs in CIEs. For example, the provision of sanitary pads for menstruating women is rationed and inevitably turns into a public and humiliating experience. Many complained they are not allowed to wash themselves before the medical check-up. If and when medical assistance is provided, NGOs report that doctors routinely prescribe tranquilizers for most conditions, also for pregnant women. The authorities claim there are no specific complaints about women's discomfort in CIEs, and attribute the lack of complaints to satisfactory conditions of detention.²⁶

The tragic case of Samba Martine, who died on 19 December 2011 in CIE "Aluche" in Madrid, after 38 days of detention is indicative of treatment doled out at migrant women in CIEs. Samba requested medical assistance on at least 10 separate occasions, without being prescribed even a blood test. That, despite the previous detention center where she was held, CETI in Melilla, having known of her grave health problem. A year and a half since her death it remains unknown what has happened to her clinical history paperwork: whether it was left in the CETI in Melilla or reached the CIE "Aluche" in Madrid, or misplaced altogether. There was no official investigation into her death and nobody has been held responsible.²⁷

²⁶ [Realidades entre Rejas](#). 2012.

²⁷ *Mujeres en CIE*, 2011.

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