



Àmbit social i criminològic

CENTRE D'ESTUDIS JURÍDICS  
I FORMACIÓ ESPECIALITZADA

Ausiàs March, 40  
08010 Barcelona  
TEL. 93 207 31 14  
FAX: 93 207 67 47



Generalitat de Catalunya  
Departament de Justícia

# Foreigners in catalan prisons

## Executive report

### Authors

Department of Social and Criminological Research and Training  
CEJFE  
GRID Research Group on Interculture and Development  
University of Lleida

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## Introduction

Nowadays Catalonia has a foreign prison population that represents over 40% of the total number of all inmates.<sup>1</sup> The increase in number of foreigners observed in recent years led the General Direction of Resources and Prison Administration (DGRRP) to propose the necessity to study in further depth this segment of the population with its personal characteristics and specific needs.

Several questions came up in the original request and these were explicitly reflected in the objectives of the research that we will present. Within the complex legal context that regulates alien status in this country, from the beginning, one of the most outstanding points was the observation of the difficulties of social integration among foreign people incarcerated once the conviction of privation of freedom was completed.

The aim of this research is to give a deep and global knowledge of the reality of foreigners in Catalan penitentiaries and their future options as well as to suggest recommendations that can help the DGRRP to intercede more efficiently in this complex and present-day matter.

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<sup>1</sup> In December 31st 2009 the percentage was 43, 4%, according to the Secretary of Penitentiary Services, Rehabilitation and Juvenile Justice. Basic statistic information, Bulletin 11, page 13. [http://www20.gencat.cat/docs/Justicia/Documents/ARXIUS/butlleti\\_serveis\\_penitenciaris\\_desembre2009.pdf](http://www20.gencat.cat/docs/Justicia/Documents/ARXIUS/butlleti_serveis_penitenciaris_desembre2009.pdf). Consultation: March 10th, 2010

## 1. Research Objectives

1. To gain knowledge in the profile of the foreigners in Catalan prisons during 2007 and 2008 and their differences and coincidences according to their origin from 6 geographic areas (European Union, rest of Europe, Maghreb, rest of Africa, Central and South America and Asia).
2. To compare personal, social, family and criminal/penitentiary variables of the foreign prison population with those of the native prison population to find out differences and similarities.
3. To establish a specific analysis of the profiles of the alien collective of women and that of young people (18-25 years old)
4. To find out the viewpoint of foreign inmates concerning daily life in prison: quality of life, relationship with prison officials, relationship with other inmates, program evaluation, expectations after serving sentence, etc.
5. To describe the legal situation of the foreigners and the progress of their documentation.
6. In view of all the above analysis, to determine the priority needs of the foreign inmates which will guide the prison intervention towards their quality of life and their social reintegration.
7. To revise national and international bibliography in order to contextualize the subject of this research.

## 2. Methodology applied

This research combines quantitative and qualitative methodology based on the analysis of three differentiated groups of study:

### Quantitative Methodology

It collects the work performed in **study group 1**: *Representative sample of the alien population that entered Catalan prisons in 2007.*

The total number of people that entered a Catalan prison at any time during 2007 is 15.317. Of these, 6719 are foreigners. We took a sample of the aliens consisting of 1654 subjects, respecting the geographical distribution of their origin and the ratio of gender. Within this sample, data was collected from the Catalan Penitentiary Informatic System (Sistema Informàtic Penitenciari Català – SIPC from now on)..

### Qualitative Methodology

Qualitative methodology has been applied to do the analysis of information obtained from 2 groups of study:

**Study Group 2**: *Foreign inmates present in a Catalan prison during 2008.* It consists of **212 foreign inmates** that volunteered to participate in **interviews** in order to obtain information not reflected in the records. None of the 212 inmates of this sample coincided with those of Study Group 1. From this group, data was extracted from four different sources: from the SIPC, from partially structured interviews performed by the prison educators, from the guidelines extracted from juridical records by lawyers of the centers and from the data of the Sub delegation of Government in Barcelona (Subdelegació de Govern a Barcelona).

**Study Group 3**: This group consists of **114 foreign inmates** from 11 prisons who were present in these centers during the months of September and October of 2008

and who volunteered to participate in the discussion groups that took place. This group included individuals different from those in the previous groups. The work of these discussion groups and the conclusions of this part of the research were performed by professionals of the School of Geography and Sociology of the University of Lleida (Facultat de Geografia i Sociologia de la Universitat de Lleida), within the research group working on Intercultural Development.

### 3. Main Results

As can be seen in the complete report, the volume of information provided by this research is very high. We have collected the main results as we understand they best answer the questions risen by the DGRRP and were reflected in the objectives of the research.

#### 3.1. Contextual data

Europe in general has a higher percentage of foreigners than the percentage which would correspond to its number of general population. (Cerezo i Garcia, 2007; Edgar, 2007; Van Kalmhout *et al.*, 2007; Dünkel *et al.*, 2005; Garland, 2005). This statement is not equally true for all countries as we find a lot of diversity. (Van Kalmthout, 2007:7).

Hofstee-Van der Meule (2007) counted 142.083 incarcerated foreigners in European prisons during 2006. From these, 77,0% are found in 7 European countries in the following order: Russia 24.020, Spain 21.624, Germany 21.609, Italy 13.339, United Kingdom 11.152, France 11.130 and Netherlands 6.661. On the opposite side we find San Marino, which has 1 foreign inmate, Slovakia 16, Iceland 17, Liechtenstein 20, Serbia 24 and Latonia 33.

Spain has a higher representation of foreigners in its prisons in relation to what it should correspond to its registered foreign population. Therefore the state average during 2005 was 29% of foreigners in prison against 8,5% registered foreigners in Catalonia. In Catalonia, four numbers during 2007 also indicate this higher representation of foreigners in prisons: percentage of registered foreigners (13,5%); percentage of foreigners in prison (40,1%); inmates per 100.000 inhabitants (130,3); and foreign inmates per 100.000 foreign inhabitants (387,6).

What seems clear from the reading of bibliography is that in the last few years there has been a considerable impact of immigration in European countries, specially in



the European Union and this is reflected specifically in the penitentiary area apart from other areas of the social politics, because of the problematic circumstances of the migration trends together with the situation of the receptor countries and of the alien legislation that doesn't often favor the integration of these newcomers.

### **3.2. Description of the general profile of foreigners in Catalan prisons, and main differences from native inmates.**

#### **Personal profile**

- Regarding gender, we find that 93,2% of the foreign inmates in **2007** are **males** . The percentage of women has increased compared to the study made in 2002, but not in a statistically significant way.

The percentage of men amongst the native inmates is 92,6%.

Both the average age amongst foreigners that enter prison for the first time (27,3) as well as the age of the base sentence<sup>2</sup> (31,3) remains the same in the last few years without changes. The age of the native inmate in 2002 was 27,1 and the age of entry for the base sentence was 33,0 years old .

#### **Penal and penitentiary profile**

There has been a significant increase (23,2%) with regards to the year 2002<sup>3</sup> in the number of foreigners that enter for the first time in prison in Catalunya. The first time inmates account for **75%** of all foreigners incarcerated during 2007.

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<sup>2</sup> In this research we use the concept "base sentence". It refers to the sentence that the inmates included in our sample are fulfilling in 2007. In case they fulfilled more than one sentence in 2007, the first one is considered the "base sentence".

<sup>3</sup> Foreign and native data corresponding to 2002 excerpts from *Penitentiary Recidivism Rate, 2008*, edited by CEJFE (2009): <http://www.gencat.cat/justicia/cejfe>.

The percentage for the whole of the prison population was 40%<sup>(1)</sup>. This comparison is however not significant since we are not aware of the criminal records of foreigners in their native country or in other destinations.

- We find a high percentage of preventives amongst incarcerated foreigners. **(35,6%)**.

The general percentage of preventives in Catalan prisons was 22,7% during 2007.

- Regarding the main offense committed, there is a big increase in **violent crimes (32,2%** in 2007 compared to 8,2% in 2002).
- For the whole of the prison population, the percentage of violent crimes was 16,5% during 2002).

In the case of foreigners, the offenses against people represent 14,3%; the offenses against sexual liberty 5,5%; offenses against property 32,6%, and other offenses 11,9%. There is also an important increase in crimes related to drug traffic **(35,7%)**, which is already the main offense committed by foreigners.

The most frequent offense committed by the prison population in general is still against property (58,9% of total in 2002).

- There is a reduction in the percentage of ordinary permits given to foreigners between 2002 and 2007 (it decreases 15,5 points, from 41% in 2002 to 25,5% in 2007) as well as in the percentage of programmed outings (it decreases 4,8 points, from 15% in 2002 to 10,2% in 2007).

The amount of ordinary permits given to native inmates was 65,9% in 2002 while the programmed outings accounted for 25,4%.

- The number of incidents, misdemeanors and sanctions amongst foreigners during the years 2002-2007 has not changed. If we take into account the number of incidents (an average of 0,5% or incarcerated foreigners against an average of 1,6 for incarcerated Spanish nationals), the number of misdemeanors (1,5% on average for foreigners against an average of 3,4 amongst Spanish nationals), and the number of sanctions (1,1 on average for foreigners against 2,7 for Spanish Nationals) we find that the adaptation of foreigners to the regulations and the penitentiary system is better than that amongst natives.
- Three out of every four incarcerated foreigners don't want their consulate to know that they are in the country (76,4%)

### **Migration process and social support in Catalonia**

- Regarding the **characteristics of the migration process**, we found the same proportion of answers among foreign inmates and general foreign population concerning the following points: a) the reason for leaving their native country which is to improve their quality of life (75,8%), b) the factors that attracted them to Spain, which were relatives, mainly siblings but also friends (44,5%), c)

the existence of social capital<sup>4</sup> previous to their arrival in Spain, which is family already here (25,7%), d) arrival with family (25%). However we did find differences in f) the means of travel (fewer come directly from their native country than the rest, 36,9% compared to 87%), g) the lack of mandatory papers necessary for entry in Spain, like visas (82,2% for imprisoned aliens versus 19% for the general alien population), h) one third of all foreign inmates have been detained upon arrival in Spain.

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<sup>4</sup> When we talk about social capital we are referring to a social network of people they know, their possibilities for asking for help, for information, how they relate to them and how they can collaborate with them.

- From the discussion groups that took place, we can say that the foreign inmate population in Catalan Centers abides to profiles of different origins and they are not always what we refer to as *immigrants*.<sup>5</sup> If we analyze the objectives of these people, we can conclude that some did have in mind the aim of migration (with reasons to leave their country and move to a new country), while others were part of a project that was not their personal one (sons and daughters of immigrants), and still others that just had in mind a way to earn money quickly (generally through drug traffic) or were on their way to other countries and got arrested in Spain. This way their objectives were and still are quite different upon their exit from prison and range from those prisoners who would like to remain living in Spain, to those who would like to be sent off from Spain, those who would like to move to another country or those who would like to go back to their native country as soon as possible.
- Regarding the **family relations** of the imprisoned foreigners, according to our study, two thirds of them have relatives in Spain (66,3%) and they maintain contact with them. According to the data in the criminal records, 44,9% receive visitors quite often (weekly), while as 17,6% of them never receive a visit. Visitors are usually relatives in 64,0% of the cases, friends in 15,1% of the cases and other visitors in 20,9% of the cases.
- 39,0% of the inmates admit they don't presently have a sentimental partner. Of those who do have one, 51,0% of them consider they have a stable relationship.
- Among the foreign prisoners, 27,8% of them don't have anyone who can take care of their personal matters outside prison. 34% has no knowledge of the country since they were imprisoned upon arrival.

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<sup>5</sup> Certain authors (referred to by Monclús, 2008:27) assign a more legal character to the concept of *foreigner* while as a more sociological character to the concept of *immigrant*, which would correspond exclusively to the foreign people that would leave their country of origin because of lack of economic resources.

- 51,9% of the foreigners have made friends among their neighbors and their work colleagues. However we would like to point out that 28,8% of them met their current friends in prison. And 15,1% of those interviewed claim they do not have any friends here.
- They hardly use the social associations (only 26,5% have contacted a sport group, cultural, leisure, immigrant groups, etc...) When we look at the difference according to gender, it is quite noticeable: 85,7% of the foreign imprisoned women that were interviewed and 70,7% of the men had no contact whatsoever with any social group in Catalonia.

### **Studies and work**

- Regarding the school studies and work training, we observe that in the period between 2002 and 2007, the level of **school and work training** among foreign inmates has increased. There are more foreigners with university studies (4,3%, 2 points above the percentage in 2002) and fewer that have no studies whatsoever or are new readers (18,4%, 2 points below the percentage in 2002). Professional training in foreigners also increased in this period and we find a higher percentage of people with professional qualifications. However 19,3% of the foreigners admit having no profession or work skill (8 points below the percentage in 2002).

The data we have of school and professional training of native inmates (2002 study mentioned) is significantly better than those of foreigners.<sup>6</sup>

- Regarding work, although 68% claim they did work at some time in Spain, only 35,8% had a legal work permit to do so, according to the Government sub delegation.

## Health

- Regarding **health** 63,1% believes their health has changed with imprisonment. Within this group, over half state that they believe their physical health has improved since they are in prison, and they attribute this to an orderly life they didn't lead before entering prison.
- Regarding their spirits, 80,7% state they feel sad inside prison because of their situation. There are no reports of severe attempts of self injury, nor suicide attempts or completion.
- 31,1% of the foreigners interviewed, admit drug problems. Within this group 75,8% state they severely abused drugs, and 59,4% believe their drug consumption is interfering moderately in their lives. The most prevalent drugs are Cannabis, alcohol and cocaine.

### 3.3. Profile of foreigners according to geographical areas.

The geographical area is a variable highly used to understand the ability of integration of the different foreign groups. However we agree with other authors that it is not so much the geographical area the variable that differentiates the ability to integrate of a specific group, but the establishment of roots in the country and the control and support offered by the social network to the newcomer. The geographical area is a slanted variable because several collectives show differences regarding the social network they have, specifically towards the possibility of becoming a legal resident in the country.

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<sup>6</sup> Without any education or first time readers (native inmates 7,1%, versus 20,3% aliens); Basic mandatory schooling or equivalent (native inmates 46,2%, versus 27,6% aliens). Regarding their profession, without one (16,1% of native inmates versus 27,2% of aliens).

## Maghreb

- It is the geographical area with the highest percentage of imprisoned people (37,7%). They are mostly men (99,0%). They are the youngest group to enter prison for the first time (26,1 years old) and in the base sentence (29,9 years old). They are the collective with the least family obligations from the whole of foreign people found in prison (41,2%). It is also the collective with higher percentage of people with basic schooling (42,6% from 7th grade to 10th grade) It is the collective with higher proportion of people who don't want their consulate to be informed of their presence (86,8%). If we look at the type of offense committed, they are over represented in crimes against property (35,6%). Together with central and south Americans, they are the collective with the highest percentage of violent crimes committed (37,2%).

## Latin America

- People coming from Latin America conform the second largest group in percentage of foreigners in prison (25,0%) and has doubled since 2002. They have a percentage of women (14,5%) quite higher than the average of foreign women (6,8%) and than the general percentage of incarcerated women (7,4%). Regarding their family, they are the collective with greatest family obligations (29,3% have at least three children). They don't have any problems with the Spanish language, however it is the collective with the highest percentage of people that do not understand Catalan (57,6%, when the average is 48,9%). It is the group with the highest proportion of people that want their consulate to be informed of their presence in the country (34,7%). Depending on the main offense committed in the base sentence, the Latin Americans are over represented in crimes against people (20,2%) and also in crimes related to drugs (43,7%). Together with the group from Maghreb, Latin Americans commit in highest percentage more violent crimes than the rest of collectives (36,6%).

## European Union

- Citizens from the European Union represent 18,0% of incarcerated foreigners. They also have a higher percentage of women (10,8%) than the average of foreigners and than the general average. It is the group of foreigners with the highest average in age in the base sentence (33,1 years old). If 8,5% of foreigners claim they don't understand any Spanish at all, those coming from the European Union double the percentage (18,9%) and they position themselves together with the Asian population among the collectives which least understand the language. One out of every four (24,9%) claim they don't have any work skill or profession, while the average is 19,3% of the total of foreigners. It is the group with the highest percentage of first time entry in prison (87,5%). Depending on the main offense committed in the base sentence, the citizens of the European Union are over represented in crimes against property (39,0% are in prison for this type of crime).

## Rest of Europe

- Those coming from Europe not part of the European Union stand out as the group with oldest people to enter prison for the first time (29,5 years old). They are also those who least understand Catalan (58,2%, while the average is 48,9%) and claim in the highest percentage, not to have any work skills of profession (32,0%, while the average is 19,3%). It is one of the two collectives with the highest proportion of people that don't want their consulate to be informed about their presence in Spain (84,4%). Regarding the type of crime committed in base sentence, they are over represented in crimes against property (55,7%). Once in prison, they are the group with the least permits given (regular permits 8,2%, programmed outings 4,9%) and that least participate in activities (only 55,7%, versus 74,8% of the average of the total number of foreigners).



## Asia

- Asians are mainly men in 95,9%. Their characteristics are those described in general for the incarcerated foreign population, and the only significant difference is the fact that they represent one of the two collectives of foreigners that least understand Spanish. If 8,5% of foreigners claim not to understand any Spanish at all, those coming from Asia double the percentage (18,9%). The main offense is against property followed by crimes related to public health (drugs).

## Rest of Africa

- Foreigners coming from the rest of Africa are mainly men (97,5%). Depending on the type of crime committed in the base sentence, people coming from the Sub Sahara are over represented in crimes related to drugs (63,3% is in prison for this type of crime). They stand out for being the group with the lowest percentage of violent crimes (83,3% are non violent crimes, while the average is 67,7%). It is the collective with the least rate of probation (only 10,0%, while the average for the collective of foreigners is 22,6%). It is the collective with the highest percentage of participation in activities inside prison (80,8%) and that obtain ordinary permits in greatest proportion (32,5%).

### 3.4. Specific profile of incarcerated foreign women

- Half of the incarcerated foreign women come from Latin America (50,6%) and one fourth come from countries of the European Union<sup>7</sup> (27,0%). The other fourth of the incarcerated women come from the rest of the geographical areas.

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<sup>7</sup> Lets recall that of 126 women from the European Union imprisoned in a prison in Catalonia during 2007, 60,5% came from Rumania, and that from the 1st of January of 2007, it is a European Union country. The following country from the European Union with highest representation in Catalan prisons is France with 15 incarcerated during 2007 (12,1% of the total). This information should be taken into

- One out of every five women have their home outside Spain (19,6%), and very few don't have a home (4,1%).
- Regarding studies and training, incarcerated foreign women claim in a higher percentage than men, to have their basic and advanced schooling (high school and university). Basic Schooling or equivalent 32,0% of women versus 28% of men. High school: 5,2% of women versus 0,5% of men. University Studies: 9,1% of women versus 4,0% of men.
- Regarding the knowledge of the official languages of Spain, incarcerated foreign women present the highest percentage in both extremes. There is a higher percentage of women than men that cannot understand Spanish or Catalan, but on the other end there is also a higher percentage of women who are capable of writing both languages.
- Regarding the professions, women stand out in the service Industry (47,3% versus 22,5% of men). There are also more women that claim they don't have any profession (39,4% versus 18,4% of men).
- Regarding the family obligations, we can clearly state that women have many more than men.
- Their migration pattern is more recent than that of men. Over half (55,7%) arrived during the period 2005-2008.
- The main crime committed for half of the women is related to drug possession or traffic (54,5%).

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consideration when analyzing the results because Rumanian women and their specific problems highly condition the results obtained.

- 90,2% of women enter a Catalan prison for the first time. Furthermore those with a criminal record have a lower average of previous prison entries than that of men (1,4 entries).
- Women are older in age upon entry into prison (28,5 years old versus 27,2 for men).
- Foreign women receive harder sentences (on average, 5 years) than foreign men (on average 4 years), probably because of the type of crime committed (although women are percentage wise less represented than men in violent crimes and crimes against people).

### **3.5. Specific profile of incarcerated foreign youngsters**

We found few differences between adults and youngsters (18-25 years old) among the incarcerated immigrant population. The only differences worth pointing out in this summary are the following:

- Youngsters commit, in a higher proportion, crimes against property (42,4% of youngsters versus 10,3% of adults) and, within this class, more thefts with violence and intimidation. Among adults there is a higher proportion of people who commit drug crimes and other crimes. A higher proportion of youngsters commit violent crimes (youngsters 33,3% and adults 19,9%).

The stay in prison of youngsters is more troublesome in terms of incidents, misdemeanors and sanctions, that on average are more frequent than in the case of adults with statistically significant differences.

### **3.6. Legal situation of incarcerated foreigners and progress of their documents**

There is a big ignorance concerning the administrative situation in which incarcerated foreigners find themselves. In half of the cases (51,5%) we found some documents in the records at the prison which state that there had been a petition or some processing to legalize the status of the interested person. However in the remaining 48,5% there is no document whatsoever and we couldn't find out what was his administrative situation, although an expert jurist in prison services had been appointed and the records at the prison had been exhaustively revised.

There is a 40,6% of incarcerated foreigners that don't seem to be registered in the sub delegation of Government. Of this percentage we need to subtract 10,4% that are European Union citizens and don't need the NIE (Foreigner identification number) as a requisite for the processing of documents. The NIE is the first document that gives the State Administration evidence of the person's entry into the country and therefore that officially "exists". In the documentation of the prisons only 22,1% of the interviewed inmates have the NIE. This datum is an example among others we found, that shows that there are few people "controlled" by the authorities regarding their documentation.

- 65,3% of the interviewed claim they are registered (this percentage is quite similar to that of the general foreign population: 7 of 10)
- 68,6% claim they have a national health card (percentage inferior to that of the general foreign population: 8 of 10).
- 43% claim they have a legal resident permit (percentage quite similar to the data reported by the sub delegation of Government: 46,0%).
- 36,4% claim they have a work permit (percentage quite similar to the data reported by the sub delegation of Government: 39,3%).

- 16,9% claim they had a work contract.
- 17,9% have an open case against them at the Sub delegation of Government for expulsion from the country.
- Women have fewer papers. Three facts lead to these statements: 51,6% don't have NIE at the Sub delegation of Government; 44,3% of them don't have the national health card; and 53% don't have a work permit in Spain.

When released from prison, it will be much harder for them to obtain or renew their papers than before their entry in prison since they will now have a criminal record. It is expected that their irregular status will be sustained or might increase. The legislation foresees that it will not be possible to renew legal stay permits in our country when a criminal record exists, since it is an objective condition to exclude from the possibility of renewal. However in certain cases it is possible to obtain it. In case it is the first time to be requested, the options with a criminal record are still scarcer. This means that the majority of the incarcerated foreigners will remain out of the regular legal system when leaving prison and they will be dumped into illegality since they are not allowed to regulate their papers nor are they expelled from the country. In spite of these perspectives, in the interviews we detected that:

- Half of the incarcerated foreigners believe it was worth migrating, although they ended up in prison and 84,0 % wish, as their main desire, to lead a normal life upon release from prison. And they want to lead this life here. The proportion is 8 out of 10 and claim they will continue living in Spain once their sentence is over.
- In 92,1% of the records of the offender, they don't want to exchange their sentence for the expulsion from the country. There is 7,9% who would accept.
- Only 3,5% would accept to fulfill the prison sentence in their native country.

In the case of the foreign inmates that were interviewed, they seemed not to be aware of the possibilities offered by the Spanish law regarding the substitution of their sentence or fulfillment of the prison sentence in their native country. Their records show many deficiencies in this aspect, as they don't reflect that anyone has informed them of these possibilities, neither to the inmates nor to the different judicial operators. This fact was already observed by other researchers and in other countries. (Femke Hofste-Van der Meulen, 2008). The context is not clear at all and therefore uncertainty is the most common answer to the problem of what to do with the illegal alien.

### **3.7. Social integration after release from prison**

From the 371 variables found in the different research sources, we've grouped into big factors those that seem more relevant to describe the social integration perspectives of the foreign inmates.

The factors that in our research best classify the incarcerated foreigners in relation to their social integration forecast after released from prison are: their documentation, their disciplinary behavior, the rehabilitation process, their criminal records and their will power to return. Other factors that also help this classification, although with less weight are: the migratory process, the social capital, and their relationships in prison.

These factors allow us to establish different groups of foreigners that without being a closed classification, have important differentiating characteristics. It is an explanatory approach based on the fact that not all foreigners have the same possibilities and probabilities of social integration after serving sentence. From this perspective we've identified four big groups that present quite different perspectives of integration in relation to the factors already mentioned. These groups help us realize the need for different types of intervention from the penitentiary institution.

- **Group 1** is the one with the worst forecast of social integration after their release from prison. It corresponds, more or less, to 20% of the interviewed inmates and among the main characteristics of this group we can point out that they are

foreigners who don't want to return to their native country, they never had any documentation, they don't have any social network here and they don't have a defined migratory project. When released from prison, they won't be able to regularize their administrative situation until they can cancel their criminal records (after 5 years in Spain), considering that the average sentence in prison is of 5,3 years. In this group we find a higher percentage of people from Europe that is not part of the European Community, and of Rumanians and Bulgarians (presently citizens of the EU that constitute a small group with advantages relating to their regularization).

With inmates that are part of this group, we believe that the prison service should work with them from day one, on returning voluntarily to their native country, seen the slim possibilities they have to stay in Spain without social exclusion, mainly because of the impossibility of regularization and/or because of the lack of social capital they have here. The group of experts participating in the research defends the need to work on the substitution of the second part of the sentence for the expulsion from our country and follow this alternative in a more decisive way. However, if we want this process to count with the implication of the inmate and have a successful ending, it should be supported by work and social measures in their native country. A different situation is that of Rumanians and Bulgarians who, as members of the European Community, don't have the same problems of documentation than other foreigners and therefore their main obstacles are the lack of social capital and the difficulties to keep away from criminal activities.

However, while in prison, it is important to encourage their participation in all activities that can improve their reintegration wherever it happens.

- **Group 2** includes 30% of the interviewed cases. These foreigners don't want to leave the country either but contrary to the previous group, they have their documentation regularized. They have social capital here and they arrived with a clear migratory project. On average, the foreigners in this group are younger than those of other groups, they often have previous criminal records and frequently admit drug addiction problems. At the same time, in prison, their behavior is more

disruptive. However they do have social capital outside prison and they can enjoy leave permits once they comply with the established conditions. In this group we find a higher percentage of people from Maghreb. The forecast of social integration is very uncertain.

The type of personal problems of the foreigners in this group implies work with individualized interventions based on the criminal factors they present. There is a lack of expectations and possibilities of regularizing their administrative situation in Spain because of their criminal records. To this we should add the probability of criminal relapse due to their problems. If we don't work on these personal difficulties and without the support of their social capital, it will be very difficult to attain the integration goals. In short, the work in prison should be directed to achieving the incorporation into group 3 of the maximum possible number of individuals, helping them overcome the personal difficulties that prevent this.

- In **group 3** we also find another 30% of the interviewed cases. It shares many characteristics with the previous group: they don't want to return to their native country, they have had or have regularized documentation, they have social capital here and they arrived with a clear migratory project. The differences are seen in their criminal and penitentiary profile: they don't have known criminal records, they have good behavior inside prison and don't admit problems with drug abuse. If we look at their age, they are older during their stay in prison. In this group we find a higher percentage of people from Maghreb, the rest of Africa and Asia. The forecast of social integration is slightly optimistic, since as a collective, they are more prone to re-establish a normal life without committing any criminal offense. Their main handicap is the renewal of their residence and work permits because of their criminal records.

We believe we should work with this group to consolidate their social capital and their possibilities of social inclusion through training and work. Since most of them work through CIRE (public enterprise for reintegration of offenders), it would be worth reaching the third degree penitentiary (open prison) as soon as possible, the proposals of the article 86.4 of the prison regulations and access to probation. On



the judicial part, the renewal of residence and work permits should be facilitated even though the objective conditions don't allow it. There are subjective conditions that should be taken into account, and therefore it would be convenient that the Delegation of Government in Spain individually studied every situation. In this sense, the prison staff should make all possible efforts to attain the goals of social normalization and regularization of integrated people in this group as an objective upon leaving prison.

- **Group 4** corresponds to 20% of the interviewed inmates. It is the only group of foreigners who state they want to leave. They don't have and never had Spanish documentation (registration, national health card, residence and/or work permits). They don't have social capital here and didn't come with a migratory project. They don't have any disciplinary problems in prison. In this group we find a higher percentage of people from the European Union (except Bulgarians and Rumanians) and Latin American women. The forecast of social integration of this group is slightly optimistic, however focused on the return to their country of origin.

We understand that in this group we should work on the return to their native country within the circumstances and conditions of every specific case, exploiting all possibilities allowed by law. The quicker and more efficient the return process is, the better the possibilities of success and satisfaction for all parts. Otherwise the danger is that imprisoned foreigners resort to strategies<sup>8</sup> that generate new problems of social exclusion.

Often, the reality that the foreigner of each group will find upon their prison release enters in conflict with his own interests and his will to stay here, no matter what. We think the solutions proposed should try to narrow down his interests to the real viability of integration in the Spanish society or in his native country.

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<sup>8</sup> One of these strategies consists in having the children come over from their country, accompanied by a relative that can take care of them even if they have no resources here to attend them properly. The desire to have their loved ones here prevails over the conditions they will find. A strategy detected in women is to marry a Spanish in order to get the nationality or become pregnant so that the child is born here, even if it is in prison.

### **3.8. Point of view of foreign inmates with relation to daily life in prison**

- In regards to their situation in prisons, a question that worries all foreign inmates, but specially those affected, is the situation of preventive prison. They don't find correct the delay in time period of the preventive situation that some people experience, whether immigrants or not, and they give examples of long lengths of time of uncertainty in this situation and they don't have the slightest possibility of imagining their immediate future, neither in medium nor in long term.
- Once sentenced, foreign inmates worry about the length of time it will take for the resolutions and the enforcement of these resolutions. Everything seems very slow, even the expulsion from the country, that never seems to arrive although the sentence has been dictated, or like the progress in penitentiary degree or the step to open prison. Regarding this last question, foreigners without roots are the main victims of the system because while the rest of the inmates can benefit from a faster progress towards freedom, most of these have to serve the full sentence.
- In certain centers, overcrowding can be a problem for inmates since there is competition for space and services (hygienic, phone, etc.). In the same way, tensions are also present in cells, often due to overcrowding and because inmates might have cell partners that are not easy to live with.
- There are some questions that foreign inmates value positively, like the food which they find of quality (even if the menus are quite monotonous and boring) and health care which they find better than outside prison.
- Half of the interviewed think the atmosphere in prison is tense, but three out of four feel safe inside the prison and they are not worried about personal harm. Three

out of four feel accepted by the rest of inmates and three out of five states they have a fair relation with everyone.

- Regarding communication with the community, it is perceived by the inmates as very limited and controlled. News from the outside arrive through the press and mail, but for most inmates, visits and phone communication with family and friends are very important, since by phone they can keep informed about changes and about the state of their loved ones, and relate to them. According to them, the contact with the outside should be made more accessible (improve access and lower phone costs, take advantage of new technologies) and especially the visits (they also think that the conditions of the waiting should be improved as well the treatment given to family and friends by some prison staff).
- Three out of every five inmates interviewed admit it is quite hard to make time go by inside prison. In general imprisoned foreigners consider as a good strategy to do all kinds of activities, and the more the better, in order to make time go by faster and better inside prison (the average amount of activities per inmate during the period of base sentence is 16,9), They recognize the hardest time is on weekends, summer and Christmas and Easter vacation.
- Work in prison is a relevant question for the group of inmates, native and foreign. This work means keeping busy, remuneration, future work skills and social security quotation. The problem is that what is offered is not always believed to be the most adequate or attractive, and there are not enough jobs. It is also believed that most jobs are not well paid for and when foreigners don't have their situation regularized upon exit from prison, the fact that they quoted the social security doesn't make it easier for them to obtain papers or receive contributions (they can only receive contributions if they are regularized). However, native inmates think that foreign inmates accept better the jobs offered in prison as well as those worst paid for (specially among foreigners from underdeveloped countries, for whom the money received has more value). There is also the perception that a part of the inmates see themselves better by being efficient workers (especially those of East

Europe) while others suffer because of their bad image. This produces tensions whether true or not.

- The relationship with professionals and prison officials is complex due to the different attitudes adopted, ranging from those who listen to them and offer solutions to those that don't. But the perception is that part of the prison officials are distant and don't try to help them in their day to day in the prisons. Beyond personal attitude, they believe these professionals lack formation in order to attend them or have little patience (maybe because of an excessive work load). Regarding the degree of training, they feel that they are not always prepared to face questions and situations presented by the inmates. This lack of training seems very clear in subjects like intercultural knowledge, documentation and regularization formalities for foreigners, both inside prison as well as upon exit from prison.
- In general, the inmates interviewed claim they are not sure what to do in certain situations of their daily life at the prison. This fact indicates the need for improvement of the inmate's reception and for better explanations about the decisions taken. Often this ignorance is related to rumors (explanations given to the facts) that confront inmates and furthermore can generate false expectations, opinions and complaints. Actually it is often thought that the prison regime is not fulfilled, that the decisions are arbitrary since they haven't completely understood them.
- This sensation is given by the lack of coordination that they think they see between and within the teams of treatment, and the way decisions are made, according to them, without spending enough time to listen to them either because they are too busy or because they don't take enough time to do interviews. They believe the organization should be improved because the decisions taken affect their lives.

All in all, and considering that the most important for prisoners is to leave jail as soon as possible, the most worrisome points for inmates are:

1. Communication with the community
2. Preparation for their release from prison
3. The work inside the prison
4. Information and formalities on immigration law, and real possibilities of regularization
5. The treatment given to them by prison officials and professionals

All of these questions, except the one related specifically to immigration law, are common to all inmates (let's recall that in certain concrete cases, native inmates also participated in the groups). The concern about communication, preparation for their release from prison, work in the prison, and the treatment given to them by prison officials and professionals is common to all inmates, while as immigration law and the evolution made by a foreign inmate compared to that of a native inmate is a specific problem of the non Spanish citizens, and specially of those with few possibilities of demonstrating any rooting.

The stay in the prison, especially when it is a long conviction entails an important rupture with the inmate's previous life, with his project of life and with his migratory project if he has one. For some inmates, it implies losing their family and everything for what they worked for. For others it is an opportunity given by fate to give a complete new turn to life and reorient it from new parameters. In any case it is a period of reflection and an experience they wouldn't choose to live again. Many worry about the difficulties they might find to start a new life. If previous to their imprisonment it was already difficult to get by, when the conviction is completed, they think it will be much harder for them to find work and to obtain the means to lead a decent life in spite of being an ex-convict. The concern about an uncertain future darkens their projects and hopes for their return to freedom.

## **4. Recommendations: priority needs of foreign inmates that should guide prison intervention towards their quality of life and their social reintegration**

### **4.1. Convenience of dictating specific guidelines**

1. It would be advisable that the prison services would write down a form geared to coordinate and regulate the specific attention needed by foreign inmates, among all professionals and in all prisons. The form should include the specific guidelines of the Secretary of Penitentiary Services, Rehabilitation and Youth Justice on subjects like a) the endowment of staff, training, organization and professional specialization; b) specific aspects related to the regulation of coexistence, living conditions and facilities; c) the information that should be given to all foreigners and the process of reception; d) the peculiarities of the work objectives with foreign inmates towards their reintegration (documentation management, expulsions, contacts with the consulate, etc.); e) criteria regarding the contact with the community, activities that help them reintegrate, and leave permissions; f) other relevant aspects of the following recommendations.
2. It would be convenient that the prison authorities establish a design for implementation, follow-up and control of these specific guidelines.

### **4.2. Improvement of staff endowment, its training, organization and specialization**

3. It would be advisable to improve the ratio professionals/inmates in order to increase the attention time dedicated to inmates.<sup>9</sup> The main problem is the remarkable increase of inmates in prisons and the delays this implies on inmate care and decision making. Priority criteria should be established in the information and personal attention to inmates as well as general organization of the work of

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<sup>9</sup> This is not a measure exclusive for alien inmates. It should be extended to all prison inmates in order to give them better attention.

the professionals considering, among other existing aspects, that of being foreigner.

4. Initial and continuous training of prison staff and volunteers should be updated and increased in order to help them understand the immigration process, how to work in different cultural contexts, and be aware of racism and xenophobic attitudes and behaviors.
5. It would be convenient that there were a multidisciplinary team of specialized professionals that were highly trained and updated with all information related to immigration law, in all prisons. These professionals could give advice to the inmates and/or other professionals related to each specific case and their future possibilities. Due to the importance of knowing the complex and rapidly changing immigration law in Spain, a lawyer specialized in this matter should be present in the team. This team would have to guarantee that the information on the legal and social situation of the foreign inmate should travel with him in every prison transfer.
6. It should be assured that those professionals, and other people that have a relation with the inmates, report any doubt to the multidisciplinary team and that they coordinate themselves to offer inmates an objective and reliable answer, especially when it concerns his future possibilities and his perspectives of administrative regularization (what is a matter of great concern for foreigner inmates).
7. It would be advisable to homogenize the work in all prisons, in such a way that the results or the evaluation by a professional or a professional team, could be a reliable starting point for the work of any other subsequent professional or team (in case the inmate goes to another department or another prison). This way, a prison transfer, a change of department within the same prison, or a change of staff in the multidisciplinary team wouldn't hinder the inmate's processes.<sup>10</sup>

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<sup>10</sup> The same comment as footnote of page 8.

### **4.3. Favoring of a good atmosphere of coexistence and prevention of conflicts**

8. Prison authorities have to sustain and promote intercultural relationships in order to foster mutual knowledge, tolerance and socializing values, and to avoid ghettos that can harbor undesirable hierarchical or violent subcultures. Positive and negative discrimination should be avoided so that the rest of inmates don't sense favoritisms or negative discrimination towards a specific group.
9. It would be convenient that all prisons would pay attention to any racist demonstration in the environment and would work towards prevention to eradicate it before it becomes a problem for coexistence or safety.
10. By means of this research, inmates have repeatedly stated that there are moments of the daily life in the prison that are quite delicate for the coexistence. These moments correspond to situations when the services are overcrowded (long lines to enter to the dining hall, lines for the use of telephone, lines to buy, lines to shower if there are no showers in the cells, etc.). It would be a good preventive measure to collect and apply the good prison organization practices that already exist in some prisons, in every one of these subjects, and extend them to all prisons.

### **4.4. Improvement of the information given to foreign inmates (quality and frequency) and construction of a realistic perspective of future**



#### **4.4.1. Taking care of the process of admission**

11. Admission in prison or transfer to a different one can be quite an intimidating and inhumane experience. It is therefore essential that the foreigners, just like the rest of inmates, understand well what is happening to them, and have extensive knowledge on how the center works and on its regulations (rights and duties, activity organization, role of the professionals, procedures for complaints, contacting the consulate, etc.) It should be looked into that all prisons facilitate all this information in writing, in several of the most common languages. Furthermore the professionals should ensure that this information is presented to the inmate upon admission and that is fully understood by him.

12. There should be a person designed to be the assistant to foreign inmates<sup>11</sup> and this could be another trustworthy inmate who could provide information on daily life in prison: how to face this experience and how to minimize his isolation, being by his side during the first days and during his first activities in prison. This assistant should also be a foreign inmate that has knowledge of several languages and who would receive specific training inside the prison to cover this position (which could be remunerated).

13. The figure of the intercultural mediator, whom already exists in the prisons, should take part of the process of admission of any new foreign inmate. The mediator can facilitate the comprehension and adaptation to the regulations and can be the bond with the community.

#### **4.4.2. Sufficient information and support to the construction of realistic project of future**

14. It is important to work on the possibilities of future with the imprisoned foreigners from the first day and in a continuous manner. The foreigner inmates need to know whether they will be able to remain in the country or if will be expelled when

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<sup>11</sup> The same as footnote of page 8

they are set free, and they also need to know all the advantages and inconveniences of returning to their native country or of their stay here, as well as the possibilities they have of reducing their conviction upon return, and what other options they have for their future. The lack of information and the uncertainty is one the questions that most worry this inmates.

15. There is a generalized complaint among inmates, who claim it is very difficult to start off and continue ahead with any process that can clarify their future (whether to renew or obtain documentation, or to be expelled, or to return to their country in other conditions): they feel that access to professionals, the fact of receiving clear information, and being updated periodically on their situation, is a difficult task. They think that processes take a long time and they are not informed of their evolution. It is necessary to optimize these processes and further simplify the bureaucratic formalities. The prison authorities and the immigration services should improve their collaboration so that foreign inmates that have to be expelled don't spend unnecessary time in prison. It would be interesting that the referent of the case in penitentiary services would be implicated and could motivate the judicial authority to ensure fluidity in these complex and delicate processes.<sup>12</sup>

16. It is important to foster successful initiatives regarding the return of foreign inmates to their country that assure social support (micro credits, family support, etc.).

17. In the case of foreigners from the European community, there might be cases in which it is possible to substitute incarceration for community services or probation in their native country and this practice should be extended to all prisons. Therefore it is convenient that the prison authorities monitor the return processes and conviction substitution, and to ensure that the supervision and control of the rehabilitation process is transferred to the authorities of the European Community country.

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<sup>12</sup> In our research, those inmates who are clearly in this situation are those in group 4 (see chapter 7, points 7.2.3. and 7.3.4).

18. It would be advisable that the prison staff would specify in the PTI (individualized project of treatment) realistic goals for the future, reached in consensus with the foreign inmate. This would help the planning of concrete rehabilitation programs as well as the preparation for being set free, whether it is in the country of origin or in Spain.

19. It is advisable that all prison staff and the collaborating institutions (NGO, volunteers, etc.) that interact with foreign inmates monitor an optimum coordination and exchange of information between them. That would avoid giving contradictory messages to the inmates regarding their situation and their possibilities for the future.

#### **4.5. To expand the possibilities of training, work and education inside and outside the prison**

20. The prison authorities should do their best to increase the offer of workshops and useful skill training that reflect the needs of the labor market.<sup>13</sup>

21. The prison authorities should further facilitate the learning of Catalan and Spanish at a beginner, intermediate and advanced level. They should also offer the opportunity to learn other languages such as English.

22. Foreign inmates should be offered the possibility of participating in official classes to obtain a basic school degree, high school or university studies which would improve his possibilities of future.

#### **4.6. Favoring the foreign inmate's connection with the community in order to reduce social isolation**

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<sup>13</sup> The same as footnote of page 8

23. The prison authorities can promote a more flexible regime of visits for those foreign prisoners with a poor social network in Catalonia, so it is worthwhile for relatives and friends to come from long distances. An alternative, used in other countries, is to enable a space for long stays (two or three days).
24. Furthermore, the prison authorities could allow foreign prisoners to make phone calls at different times than those stipulated in the regulations in order to adapt to the different time zones of the country of origin. It would also be good to explore the possibilities of incorporating TIC (information and communication technologies) like internet, videoconferences, e-mail, etc., as communication tools for the inmates in general, but specifically for the foreigners who don't have close relationships, therefore reducing their isolation, and extend this practice, which is used sparingly, to all prisons.
25. It would be advisable to foster agreements with community organizations of volunteers so that they could visit the foreign prisoners and could reduce social isolation.
26. Regarding foreign inmates who don't have a social network in our country, it is best that the prisoner doesn't encourage his family to come in a precarious or illegal way, especially when children are concerned. The inmate cannot evaluate the cost of social exclusion that this can represent to his relatives. It is important to work these aspects with the inmate and support him, so he doesn't look for affective support in inappropriate ways.

#### **4.7. Favoring prison permissions to leave, and access to open prison regime and probation**

Presently it seems that for the fact of lacking documentation or social network among part of the foreign population, these variables have a lot of weight against proposing leave permits or a more open regime. Probably, this is due as much for the limited accommodation and social support resources as for the risk associated with a non-

return. This often subjects part of the foreign population to a harder fulfillment of the sentence and to a scarce preparation for the exit.

Regarding the risk of non-return in permits or outings, the Catalan Prison Administration is developing the project Riscanvi in penitentiaries, which incorporates a structured appraisal of several risk behaviors, among others, the risk of a conviction breach. This instrument provides general evaluating elements to propose a leave permit or an open prison regime. However, in the case of the foreign population, some elements should be taken into account to work specifically to find residential resources and support network, so that these elements were not dissuading anybody at the time of proposing permits or regime progressions.

27. It would be convenient to favor links with intermediate, residential and support resources for foreigners without bonds, whenever their intention is to remain here. The multidisciplinary teams in prisons could then propose permits if they think it is appropriate for the social reintegration process of the inmate.<sup>14</sup>

28. The prison authorities should maintain and foster agreements with entities that can structure a network of hostels, flats and assisted residences which would make the concession of prison permits with guarantees, and the preparation of inmates without social network or home for their release from prison, possible in a stable way. In these agreements it could be regulated that the accompaniment at the moment of excarceration is a necessary condition.

29. The prison authorities could establish agreements with municipal associations and federations so that city councils assumed the administrative formalities of all imprisoned foreigners with social network to help their social reintegration upon release from prison (such as positive certificates of social roots for those foreign inmates that fulfill these conditions, even if without legal documentation).

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<sup>14</sup> In our research, those inmates who are clearly in this situation are those in group 3 (see chapter 7, points 7.2.2. and 7.3.3).

The set of recommendations that come about from this research, constitute a synthesis of the improvements necessary in Catalan prisons with regards to approaching the situation of foreign inmates, based on all the information given about in this research. We are talking about a set of aspects that can constitute, totally or partially, an innovative project in this area, which specifies objectives, performances and resources. Upon implementation of these improvements, we can create a system of evaluation and control that guarantees the effective execution. At the same time it is advisable to encourage the participation of experts from Catalan universities in the counseling and technical design of this innovative project.

Finally, we would like to insist on an idea that we previously exposed in other researches: the need to collect and computerize systematically all relevant data about inmates in order to make the work and coordination of the professionals, the evaluation processes and the improvement of the system, easier. We are aware that the projects that the Secretary of Penitentiary Services, Rehabilitation and Juvenile Justice is presently developing, will improve this aspect; however attention should be paid to the specific situation of the foreign population.

## Epilogue

One of the main concerns of the Catalan Prison Administration when they ordered this research to the Center for Legal Studies and Specialized Training was the difficulty to comply with the objective of social rehabilitation of foreign prisoners that the Spanish Constitution expects the Penitentiary Services to achieve.

We've also seen in this research that the main concern of foreigners in prison is their future, the uncertainty of how they will re-direct their lives once sentence has been served if the situation in their native countries forces them to stay here but, at the same time, they receive complex, confusing and often contradictory messages about the possibilities of regularizing their situation and having access to work here in Spain.

Regarding this essential matter, we've pointed out a few ideas for improvement and some specific suggestions on aspects that can be approached in the penitentiary area. However we are aware that the clarification of the prospects of future for foreigners in our country is something that goes beyond this area.

The legislative framework that regulates the situation of foreigners in Spain, and that has been modified successively, is quite complex. Foreigners serving sentence suffer this complexity, linked to what their legal situation as condemned individuals implies.

The combination of the Spanish criminal Code with its successive reforms, the Immigration Law, also often reformed, and the performances of the implicated administrations in the area of alienism lead to a dead-end street that affect mainly non European Community foreigners. This collective of foreigners find themselves with an expulsion order but without this being executed, while at the same time they are denied regularization or renewal of their residence and/or work permits. As a consequence, they don't have legal access to economic means and this leads them and their family to social exclusion and, possibly, to obtain economic means illegally. This is a big problem that affects social and safety policies.

We think it is essential to work towards a clarification of immigration policies, of the legal framework that regulates them, and of the role of the different administrations implicated in their execution.

We understand that either the foreign inmates are transferred to their native country, initiative that would need to be accompanied by support programs, or there must be regulation and legalization of the foreigners under article 25.2 of the Spanish Constitution,<sup>15</sup> and therefore all performances should lay the base for this interaction into the country of reception.

And to finish with these thoughts about generic recommendations, we would like to give some warning about future generations, sons and daughters of aliens that are presently imprisoned.<sup>16</sup> In our case, considering the foreign inmates who are presently in prison, we think quite a few could be descendents of youngsters from Maghreb (who came when they were minors), young Latins who rejoined their parents in Spain when they were adolescent (their maximum ambition is to have a wife and children and to settle here without worrying about the conditions) and the children of Rumanian Gypsies and from other countries in Europe (without schooling and with marginal activities as a daily form of subsistence). Therefore we are facing a problem in the immediate future in which we should display preventive social policies.

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<sup>15</sup> Spanish Constitution. Art. 25.2. "The custodial and the security measures will be orientated towards rehabilitation and social reintegration and may not consist of forced labor. The condemned to imprisonment who is serving shall enjoy the fundamental rights in this chapter with the exception of those who are expressly limited by the contents of the conviction, the meaning of the sentence and the penitentiary law. In any case, he shall have the right to paid employment and to social security benefits, as well as access to culture and to the full development of his personality."

<sup>16</sup> Research done recently in the United States show that children of third generation immigrants that came to the US, are those who present most risk of developing criminal behaviors and to show violent behaviors in the collective of immigrants. Rumbaut (2008:152).