**Answer to the Call for submissions on extreme poverty and human rights in Spain**

On behalf the visit of the Special Rapporteur Philip Alston, we present the following analysis done by Julissa Jáuregui on behalf of Alianza por al Solidaridad, addressing the situation of human rights, poverty and the precariousness in the lives of migrant people in Spain.

Taking into account the recommendations on the topics to be addressed, in this document we will focus on the three following proposed themes:

* People disproportionately impacted by poverty, including women, children, young people, the unemployed, minorities, non-citizens, and people living in urban and rural areas,
* The impact of poverty on [civil and political rights](https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx), as well as on economic, social and cultural rights such as the rights to health, housing, food, education and social security,
* Individuals and organizations with whom the Special Rapporteur should meet during his country visit

Alianza’s researches and reports on immigration policy in Spain has led the organization to consider that the current Immigration Law does not respect the rights of migrants, something aggravated in the case of those who are in an irregular administrative situation.

We are going to illustrate an ensemble of dispositions and realities that violate migrants rights, with special emphasis on the interconnection between migration and gender, which have been shaped after participatory reports done with different groups of migrant women in different territories of Spain (Canary Islands, Extremadura, Madrid, Valencia), with a perspective of human rights, gender and intersectionality:

* The approach behind the current Immigration Law[[1]](#footnote-1) is centered on security and control. The objective, which responds to a structural and institutional racism, is to regulate and control their lives thus limiting the rights and freedoms of migrants. For this purpose, the Law includes a series of tools such as the control in the Southern Border[[2]](#footnote-2), the racial and ethnic profiling by the authorities[[3]](#footnote-3), the Foreigners Internment Centers (CIE)[[4]](#footnote-4) where people who are in an irregular administrative situation are deprived of liberty up to 60 days (7.855 people were retained in 2018) and the expulsions (11.384 people were expelled in 2018, a 22% more than the previous year), among others,
* The entry into force in 2015 of the Organic Law on the Protection of Citizen Security (LOSC)[[5]](#footnote-5), so-called “Gag Law”, which legalizes pushbacks at the Spanish borders of Ceuta and Melilla. On this issue the European Court of Human Rights ruled in 2017 that Spain had breached the European Convention of Human Rights[[6]](#footnote-6). Nevertheless, the pushbacks continue. The “Gag Law” has also implied a reform of the Criminal Code where the street vending called in Spain popularly “Top Manta” has become a crime. This has led to the criminalization and persecution of these vendors who find no other way to survive since the Immigration Law keeps them in an irregular situation that does not allow them to exercise the right to work[[7]](#footnote-7),
* Migrant women in irregular administrative condition who report Gender Based Violence run the risk of being expelled[[8]](#footnote-8). It represents a clear example of the tensions between the Integral Law Against Gender Violence[[9]](#footnote-9) and the Immigration Law. It must also be highlighted that migrant women are overrepresented in the figures of Gender Based Violence victims, which adds to the various difficulties they face in accessing care and protection due to their irregular administrative status[[10]](#footnote-10).
* There are many cases of violence and rights violations suffered by domestic and care workers, most of them migrants[[11]](#footnote-11). More than 600.000 people work in this sector in Spain, making it the European country with the highest number of domestic workers. It is also a feminized sector in which women carry out their work in a precarious and exploitative way where they are being exposed to different types of violence: structural, economic, psychological and sexual. This is further aggravated in the case of migrant women who work in the "intern regime", living in the same houses that their employers. Many are in an irregular administrative situation, working up to 14 hours per day, under the control and abuse of power by their employers which often blackmail them with an offer to a future regularization of their situation (which never comes). Many of those migrant women are forced to endure these situations because they have no other alternative to earn their livings,
* In the same direction, Spain has not ratified the C-189 ILO Domestic Workers Convention[[12]](#footnote-12), which would mean equalizing the domestic employees’ rights to the ensemble of workers rights, such as having the right to unemployment, or having labor inspections which would allow to control the conditions of abuse and arbitrariness in which they work,
* Many migrant women exercise transnational maternities, since the majority of them are employed in the domestic and care sector with low wages and unstable jobs, which makes impossible for them to meet the requirements that allows family reunification under the current Immigration law, such as stable economic resources or a housing of specific dimensions and characteristics according to what is understood as the “Spanish model”. Women spend years separated from their sons and daughters because of the complications and bureaucratic barriers to reunification, and this violates children’s rights to live with their families. Spain, as signatory of the UN Convention on the Rights of the Child, has the obligation to take measures to comply with it and the best interest of the child standard,
* There has been increasing acts of racism and xenophobia in the face of a political and social scenario that overflows the state framework, which seems to give legitimacy to these events. It is important to highlight the rise of Islamophobia, especially against women with certain markers such as the veil, as well as the different discriminatory discourses and narratives that dehumanize and criminalize migrants,
* We would like also to report the expulsion from the political community of migrants residing in Spain who do not have the active nor the passive right to vote in general elections. Besides, migrant’s children do not have either this right, since nationality is transferred by parents (*ius sanguinis*) not by being born in the territory (*ius solis*). In the case of municipal elections, migrants hold the right to vote only under particular cumulative conditions[[13]](#footnote-13)

Finally, linked with all the arguments that have been exposed, from Alianza we recommend that the United Nations Special Rapporteur on extreme poverty and human rights meet with the female domestic workers who have opened in Madrid the first Center for the Empowerment of Household and Care Workers in Spain (CETHYC) and which is managed by our Active Domestic Service (SEDOAC) partners with whom we have been working on different projects with various migrant groups and associations.

We propose this meeting because it makes visible a sector in which women and especially migrant women are exposed to different rights violations, as mentioned above, and because this is a sector that occupies the most precarious and least recognized positions in the socio-economic order and that also has a direct impact on the access of migrant women to other rights such as health, housing, education, food, etc. For all this we speak of a generalization of the precariousness of their lives.

In addition, we propose the visit to CETHYC because it has become a space in which different organizations of the Madrid anti-racist movement, led by migrants, are organizing and examining racism as a structural issue that, along with other oppressions such as patriarchy and heteronormativity, intersect and therefore have to be analyzed together.

1. Organic Law 4/2000, of January 11, on the rights and freedoms of foreigners in Spain and their social integration), <https://www.boe.es/buscar/pdf/2000/BOE-A-2000-544-consolidado.pdf> and Royal Decree 557/2011, of April 20, which approves the Regulation of the Organic Law 4/2000), <https://www.boe.es/buscar/pdf/2011/BOE-A-2011-7703-consolidado.pdf> (in Spanish) [↑](#footnote-ref-1)
2. In 2018, more than 1.064 people died or disappeared, as sated in the Report: “Human Rights in the South Border 2019”, done by the Association for Human Rights in the South Border, and available at <https://www.apdha.org/wp-content/uploads/2019/02/informe-frontera-sur-2019-web.pdf> (in Spanish) [↑](#footnote-ref-2)
3. In the report on police identification and ethnic profiling linked to the campaign "Parad de pararme" (Stop stopping me!), it is established that, out of every 100 foreigners, 19,59 are identified by the police, while out of every 100 Spaniards, police identifies 2,63 This implies that, for every Spanish person identified, there are 7,4 foreigners. See [https://www.pareudepararme.org/informe-es](https://www.pareudepararme.org/informe-es/) (in Spanish) [↑](#footnote-ref-3)
4. In 2017, Mohamed Bouderbala's lifeless body was found in the Foreigners Internment Centers (“CIE” in Spanish). More information at <https://www.eldiario.es/desalambre/Vida-muerte-Mohamed-Bouderbala-Archidona_0_850765666.html> (in Spanish) [↑](#footnote-ref-4)
5. Organic Law 4/2015, of March 30, on the protection of citizen security, so called “Gag Law” because of its impact on freedom of expression <https://www.boe.es/buscar/pdf/2015/BOE-A-2015-3442-consolidado.pdf> (in Spanish) [↑](#footnote-ref-5)
6. Ruling available at <https://www.idhc.org/es/actualidad/el-tedh-sentencia-que-espana-ha-incumplido-el-convenio-europeo-de-derechos-humanos-por-las-devoluciones-en-caliente.php> (in Spanish) [↑](#footnote-ref-6)
7. The conditions established by the Immigration Law mean that among the different options for accessing a residence permit in Spain (contracting systems at origin countries, marriage, visas for highly qualified profiles, student permits, etc.), the most affordable for non-EU foreign persons, is the temporary residence permit for reasons of *social rooting*. And despite being the “most affordable”, requires the fulfillment of many cumulative requirements and is closely linked to the obtention of a work permit. Amongst others, the person must have an identification document in force and be able to prove continued permanence in Spain for a minimum period of three years. It is necessary that these three years pass, in addition to many other conditions, for people to be eligible for an employment contract [↑](#footnote-ref-7)
8. This is the recent case of a young Honduran woman who came to report a physical assault and an expulsion file was opened due to her administrative situation. Watch <https://www.eldiario.es/desalambre/Mujer-hondurena-agresion_0_909209779.html> (in Spanish) [↑](#footnote-ref-8)
9. The Organic Law 1/2004, of December 28, on Comprehensive Protection Measures against Gender Violence, provides a system of protection and comprehensive assistance only for those women who are mistreated "by those who are or have been their spouses or who are or have been linked to them through relationships of affectivity even without coexistence", which leaves out mechanisms of protection with respect to other types of violence against women (at sexist, sexual, economic, labor…levels) In 2014, Spain ratified the Council of Europe Istanbul Convention of 2011, which obliges to expand the concept of gender violence beyond the partner or ex-partner, but there has not yet been a transposition to the state legal system. Frequently, the Gender Based Violence that migrant women face, is not interpreted as such, due to these restrictive conditions contained in the Law, and many women don’t feel either the strength to identify their assailants -often their employers-, which is also required. When they are in an irregular administrative situation, and it is interpreted that they don’t have suffered Gender Based Violence, they may be expelled. More information on the law, at <https://www.boe.es/buscar/pdf/2004/BOE-A-2004-21760-consolidado.pdf> (in Spanish) [↑](#footnote-ref-9)
10. From the 2019 report “Migrant Women victims of gender violence in Spain”, done by AIETI and the Network of Latin American and Caribbean Women, available at <https://aieti.es/wp-content/uploads/2019/02/Violencia_genero_mujeres_migrantes.pdf> (in Spanish) [↑](#footnote-ref-10)
11. From Alianza por la Solidaridad 2018 report “Migrant Women as Political Subjects. Creating strategies against violence” <https://www.alianzaporlasolidaridad.org/wp-content/uploads/ALIANZA-MUJERES-MIGRANTES-COMO-SUJETOS-ESTUDIO.pdf> (in Spanish) [↑](#footnote-ref-11)
12. Available at <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C189> [↑](#footnote-ref-12)
13. They have to register prior to every election in the electoral census, they have to hold a residence permit, must have been residing in Spain for at least 5 years prior to the elections, and it is necessary reciprocity agreement of their countries of origin with Spain. This agreement exists only with the following countries: Bolivia, Cape Verde, Chile, Colombia, Ecuador, Iceland, Norway (3 years), New Zealand, Paraguay, Peru, Republic of Korea and Trinidad and Tobago. This measure leaves out migrants from countries with large numbers of residents in Spain such as: Morocco, China, Ukraine or Senegal [↑](#footnote-ref-13)