



**Political rights of immigrants in Spain**  
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## Abbreviations

### Social Organizations and Political Parties:

Abrev.	Complete Name (Spanish)	Complete Name (English)	Description
CC	Coalición Canaria	Canarian Coalition	Regionalist Party of the Canary Islands
CCOO	Comisiones Obreras	Workers Commissions	Trade Union
CSM	Consenso Social sobre Migraciones	Social Consensus on Migrations	Social Body composed of different social associations and organizations and supported by academic experts, on the political rights of immigrants.
ERC	Esquerra Republicana per Catalunya	Republican Left for Catalonia	Independentist Left-wing Party of Catalonia
IU	Izquierda Unida- Iniciativa per Catalunya Verds	Green United Left Party	Green Left-wing Party
CIU	Convergencia i Unió	Convergence and Union	Nationalist Party of Catalonia
Platform	Plataforma tod@s iguales. Tod@s ciudadan@s.	Platform all equals, All citizens	union of different associations of immigrants and pro-immigrants, that campaign for voting right of immigrants.
PNV	Partido Nacionalista Vasco	Basque National Party	Nationalist Basque Party
PP	Partido Popular	Popular Party	Right-Wing Party (Liberal and Conservative, main opposition party)
PSOE	Partido Socialista Obrero Español	Spanish Worker Socialist Party	Socialist Party (currently in the government)
UGT	Unión General de Trabajadores	General Union of Workers	Trade Union

### Institucional Councils:

Abrev.	Complete Name (Spanish)	Complete Name (English)	Description
CMIB	Consell Municipal d'Immigració de Barcelona	Municipal Council of Immigration of Barcelona	See Chapter 4.
FII	Foro para la Integración de los Inmigrantes	Forum for the Integration of Immigrants	See Chapter 3.
FM	Foro Madrid de Diálogo y Convivencia	Madrid Forum on Dialogue and peaceful coexistence	See Chapter 4.

## 0. Introduction

If we take the two socialist governments of J. L. Rodríguez Zapatero (From April 2004 to March 2008, from April 2008-today) as a point of reference, we can say that the main Spanish focus of immigration policies has been the labour market and the treatment of the immigrant as a worker. This institutional emphasis was established by one of the first political decisions of the current government, which moved immigration management from the Social Affairs Ministry to a new Ministry: the Ministry of Labour and Immigration. (*Ministerio de Trabajo e Inmigración*).<sup>1</sup> This institutional framework poses problems for the debate on immigrant participation, as the social, political and even cultural dimension of immigrants are clearly of secondary interest. Instead the main focus is the treatment of immigrants as workers. This explicit conceptualization of the immigrant as *homo economicus* also makes it difficult to enter into a debate on participation, as there is no discursive framework within which this can be done.

In addition to this institutional setup, the debate has also another important restriction: It is a “prisoner” of the constitutional framework, and as we will see, this limits innovation on this particular issue, and provides a legitimate basis for the conservative discourses that use it to counter all demands for the granting of voting rights.

Taking into account this framework, when social and political dimensions enter the debate, they do so mainly under the topic of voting rights. This is why we will deal with this issue in more detail.

In the first chapter, we describe the public debate on voting rights based on an analysis of newspapers from the beginning of 2006 to today. Our main purpose is to identify the main distinctive trends in the Spanish debate in order to later help us interpret the terms under which the social and political debate takes place, which is the aim of the second chapter. The second chapter is articulated in three main sections. In the first, we introduce the main limit of the debate: the legal framework. Any argument on voting rights must take into account this legal framework. This is why we argue that this system of legal restrictions forcefully leads to a pragmatic debate. It is this pragmatic debate that is the focus of the second section. Three main key-issues will be introduced. What we have labelled “the territorial dimension”, which means the level of elections. We will see that this first cleavage is important, as it introduces the logic of voting rights as a process: “first local elections, and after, general ones.” The second key-issue is the “legal dimension”, which tries to include at least three kinds of arguments: the nationality-dependence argument: before granting voting rights, immigrants must stop being immigrants and become Spanish citizens; the second argument is related to the reciprocity principle that characterizes the constitutional restriction. Some argue for its abolishment, others argue to not only keep this principle but also base the debate on trying to implement it. Finally, length of stay is introduced. That is, the determination of time in granting voting rights, independently of being or not being a Spanish citizen. In the third section, we introduce the positions of political parties and social actors with respect to these cleavages.

The third chapter studies Spain’s main institutional consultative body, the *Foro para la Integración de los Inmigrantes* (*Forum for the Integration of Immigrants*). In the last chapter, we will present the main characteristics for further comparative research based on two different local approaches to the management of immigrant associations: the case of Madrid and Barcelona in comparative perspective.

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<sup>1</sup> See webpage: [www.mtas.es](http://www.mtas.es)

## 1. The public debate on voting rights

The public debate on voting rights can be divided into four important periods: 1) When for the first time the government said, that they considered “very improbable” the granting of voting rights to immigrants in time for the local elections of 2007. 2) Before the local elections held on the 27<sup>th</sup> of May 2007. 3) Before the national elections of March 2008. 4) Before and after the 37<sup>o</sup> Congress of the PSOE where immigrants’ voting rights was one of the important media issues.

End of August 2006	From March 2007 to May 2007	From February 2008 to March 2008	June – July 2008
After the declarations of Vice-President De la Vega admitting the improbability of giving the voting right to immigrants on the local elections of 2007	Before the local elections of the 27 <sup>th</sup> of May 2007	Before the national elections of March 2008	Before and after the 37 <sup>o</sup> Congress of the PSOE where the voting right of immigrants was one of the important issues.

Let us describe the main features of each period.

From 2002 to 2006, Izquierda Unida-Iniciativa per Catalunya Verds (Green United Left Party) tried, on several occasions, and without success, to introduce a law on voting rights for immigrants. During this period, no public debate about political rights for immigrants appeared in the media. This did not occur until the approval, in August 2006, of a parliamentary initiative presented by the PSOE and IU to extend the right to vote in municipal elections to foreign legal residents.<sup>2</sup> The public debate on voting rights of immigrants started shortly after as will be shown below. Its main trends can be summarized as follows:

1) *There is a direct link between the run up to elections (at all territorial levels) and public debate on voting rights:* Before the local elections held on the 27<sup>th</sup> of May 2007 (from March 2007 to May 2007), the debate on the voting rights of immigrants revolved around three issues: the incorporation of Bulgarians and Romanians as new voters in local elections, the number of these that were expected to vote, and their possible impact on the electoral result.<sup>3</sup> In addition, the media also talked about the claims and demands of immigrant associations for voting rights, as well as the campaigns of social actors like SOS-Racismo and the UGT and CCOO Trade Unions.<sup>4</sup> Moreover, there were also

<sup>2</sup> Parliamentary Proposition to extend the right to vote in municipal elections to foreign legal residents by the Parliamentary Groups of the Socialist Party and Izquierda Unida-Iniciativa per Catalunya Verds (Green United Left Party): 16 of August 2006

[http://www.congreso.es/public\\_oficiales/L8/CONG/BOCG/D/D\\_428.PDF](http://www.congreso.es/public_oficiales/L8/CONG/BOCG/D/D_428.PDF)

<sup>3</sup> ABC: 10/04/2007 “Unos 75.000 rumanos, búlgaros y polacos podrán elegir alcalde el 27-M” - *El País* 02/05/2007 “7.200 rumanos y 1000 búlgaros podrán votar por primera vez en las municipales” - *El País* “Elecciones 27M – Los inmigrantes que sí cuentan: Más de 21.000 extranjeros procedentes de países de la Unión Europea pueden votar mañana en las municipales y ser elegidos” - ABC 27/05/2007 “Los nuevos no serán decisivos” - *El País* 27/05/2007 “Los extranjeros representan el 2,5% del total de censados”

<sup>4</sup> *El Mundo*: 17/04/2007 “Queremos votar”: SOS Racismo y otras asociaciones lanzan una campaña para que los inmigrantes puedan participar en los comicios municipales” - *El País* 27/05/2007 “Los

calls, during this electoral campaign, from ERC (Independentist party of Catalonia), to change the Spanish Constitution because according to their understanding it discriminates between the political rights of immigrants based on their origin (they are against that fact that some immigrants can vote after 2 years by obtaining Spanish nationality while others can do so after more than 10 years),<sup>5</sup> and there are the words of one member of IU that said that the PSOE did not allow the vote of immigrants because “they were scared of the PP’s anger”.<sup>6</sup>

Before the national elections of March 2008 (from February 2008 to March 2008) there was also an intense debate that started after the public declaration by the Partido Popular’s (Popular Party) candidate Mr. Rajoy, stating he was against the right to vote of immigrants in local elections.<sup>7</sup> This position provoked an answer of immigrant associations, pro-immigrant NGO’s and trade unions that had been demanding and campaigning for the right to vote of immigrants.<sup>8</sup>

It is important to take into account that these debates always appeared in the press before the elections and not after (contrary to what Guiraudon (2000) has said: “the open policies are after elections”).

2) *It is a very politicized debate...*: public debate is monopolized by the political parties. Despite the fact that social actors, like NGOs or trade unions, are constantly campaigning for the right to vote of immigrants, the media only takes notice of this issue when one of the main parties makes a declaration or proposal about it. This is evident in the fact that the debate before the national elections of March 2008 started not as a result of the different social campaigns, but as a result of Mr Rajoy’s declarations.

3) *...framed by the PSOE* (the party in Government when the public debate on voting rights began in Spain in 2006): The public debate on the voting rights of immigrants did not begin when the parliamentary proposition was presented,<sup>9</sup> but at the end of August 2006 when the Vice-President De la Vega (from the PSOE, the party in government) said that she considered it was very unlikely that the right to vote for immigrants would take effect in time for the local elections of 2007.<sup>10</sup> After these declarations, IU (the party that presented the parliamentary initiative jointly with the PSOE) and the PP (the party in opposition with a restrictive vision of voting rights) criticized the PSOE’s comments.<sup>11</sup>

In addition, the last important debate on the voting rights of immigrants took place when the PSOE announced, during its 37th Congress in July 2008, its commitment to

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inmigrantes piden ser tratados como ciudadanos y poder participar” – ABC 24/05/2007 “Los Inmigrantes sin derecho a voto bodyizarán un simulacro de elección”

<sup>5</sup> *El País* 20/05/2007 “Portabella pide cambiar la Constitución porque discrimina a los inmigrantes”

<sup>6</sup> *El Mundo* 12/05/2007: “Mayol acusa el PSOE de no permitir el voto de los inmigrantes por miedo a la cólera del PP”

<sup>7</sup> *El País* 14/02/2008: “Rajoy rechaza que los inmigrantes puedan votar en las municipales”

<sup>8</sup> *El Mundo* 17/02/2008: “Entidades de apoyo a inmigrantes piden el derecho a voto de los extracomunitarios” – *El Periódico* 17/02/2008 “Asociaciones de inmigrantes piden votar en las elecciones” – *El País* 20/02/08 “Sindicatos y ONGs reclaman el derecho al voto para los inmigrantes” – *El País* 06/03/2008 “Campaña electoral: UGT reivindica el derecho a voto de los extranjeros residentes en España”

<sup>9</sup> See footnote 2.

<sup>10</sup> ABC: 26/08/2006 “El Gobierno descarta el voto de los inmigrantes en las municipales de 2007”

<sup>11</sup> ABC: 26/08/2006 “El Gobierno descarta el voto de los inmigrantes en las municipales de 2007”

promote the right to vote for immigrants.<sup>12</sup> This decision provoked reactions from the different parties, the PP,<sup>13</sup> CIU,<sup>14</sup> and IU.<sup>15</sup>

Finally, since this Congress, there has been no real debate on voting rights, just some news about the steps taken by the government in order to implement decisions taken, for example, the creation of the figure of a special Ambassador to negotiate the reciprocity of the immigrant vote.<sup>16</sup>

4) *The topic of voting rights is used to further political interests:* In some cases, the debate about the voting right of immigrants has been used for political purposes. One example of this is the political events that occurred in August 2006. In this period, Spain received one of the biggest waves of immigrants in its history (4772 immigrants in only 28 days arrived at the Canary Islands, 21 more than the total number of all immigrants that arrived to the Islands in 2005).<sup>17</sup> It is during this month (usually there is no political activity in Spain during the month of August) that the government used the issue of voting rights to try and hide these waves of immigrants, by approving the parliamentary initiative to extend the right to vote in municipal elections, and declaring, some days later, that they considered very improbable the granting of the vote to immigrants before the local elections due in 2007. These actions created a new debate in which the different political parties: CIU,<sup>18</sup> IU and the PP positioned themselves saying that the parliamentary proposition was just “an advertisement” that the government used “to distract the attention from the waves of immigrants arriving to the Canary Islands”.<sup>19</sup>

Once the main distinctive trends of the Spanish debate have been identified, let us focus on the terms of the social and political debate.

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<sup>12</sup> See the Resolutions made by the Socialist Party in its last Federal Congress in July 2008 (P.135) : <http://www.psoe.es/ambito/saladeprensa/docs/index.do?action=View&id=205507>

<sup>13</sup> *El Mundo* 05/07/2008: “El PP se atribuye como propia la iniciativa pero prioriza el empleo”

<sup>14</sup> *El País* 08/07/2008: “Mas rechaza el derecho de voto para los inmigrantes que propone el PSOE”

<sup>15</sup> *El Mundo* 04/07/2008: “Una propuesta copiada a IU” – *El Mundo* 05/07/2008: “El voto inmigrante así planteado, se queda en nada”

<sup>16</sup> The Principle of Reciprocity will be analysed in detail in section 2.2.2 “Legal dimension”. *El País* 31/07/2008: “Un embajador negociará la reciprocidad del voto inmigrante” - *La Vanguardia* 14/08/2008: “El Gobierno nombra al embajador que negociará el voto de los inmigrantes”

<sup>17</sup> *La Vanguardia* 29/09/2006 “Los inmigrantes llegados a Canarias en agosto superan en 21 a todos los arribados en el año 2005”

<sup>18</sup> *El País* 08/07/2008: “Mas rechaza el derecho de voto para los inmigrantes que propone el PSOE”

<sup>19</sup> *El Mundo*: 27/08/2006 “Pastor y Llamazares critican que De la Vega cuestione que ciudadanos comunitarios puedan votar en 2007”

## 2. The terms of the debate on voting rights:

This section will describe the state of the art on voting rights, in the following three dimensions: the Legal debate, the pragmatic debate and the social and political debate.

### 2.1 Restriction of the debate: Legal Framework

The Spanish Constitution in its Article 13.1 equates the rights of foreign residents to those of Spanish citizens. However it explicitly excludes immigrants' right to vote and to be elected in Article 13.2,<sup>20</sup> except in those cases where it is established by treaty or when the law attends to the principle of reciprocity. This exclusion does not affect residents nationals of Member States of the European Union. From the adoption of the Maastricht Treaty, the reform of the Spanish Constitution,<sup>21</sup> the interpretation made by the Constitutional Tribunal and the adaptation of Spanish legislation to this treaty, EU-citizens are entitled to vote in municipal and European Parliament elections.

Apart from the agreements with the Netherlands, Denmark and Sweden before the establishment of the EU and European citizenship,<sup>22</sup> the only bilateral agreement that has been effective is the one subscribed with Norway in 1990,<sup>23</sup> which gave the right to Norwegian residents to vote in Spanish municipal elections. On the other hand, Spain has signed agreements with Argentina, Chile, Uruguay, Venezuela and Colombia in order to give voting rights to residents of these countries in Spain, although the implementation or transposition of these have not yet been realised.<sup>24</sup>

As we will see in the next sub-sections, this principle of reciprocity is one of the basic key-issues being discussed.

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<sup>20</sup> Spanish Constitution: Article 13.1. Aliens in Spain shall enjoy the public freedoms guaranteed by the present Part, under the terms to be laid down by treaties and the law.

<sup>21</sup> The first and only reform of the Spanish Constitution since its approval consisted in changing the Article 13.2 as consequence of the approval in 1992 of the Maastricht Treaty. Then the Article 13.2 is as follows: "Only Spaniards shall have the rights recognised in Article 23, except in cases which may be established by treaty or by law concerning the right to vote and the right to be elected in municipal elections, and subject to the principle of reciprocity (This text includes the first constitutional reform adopted on 27/08/1992; which added the words «and the right to be elected» to the paragraph).

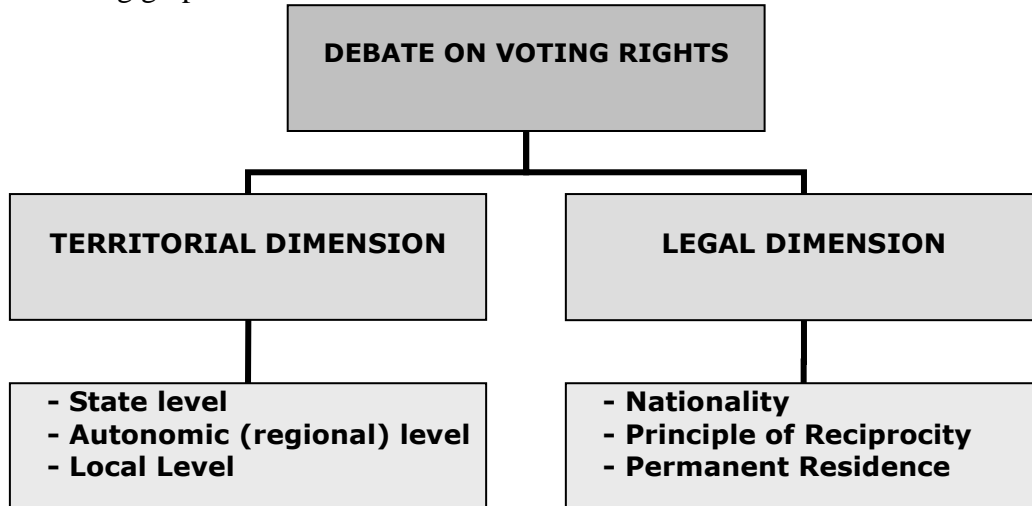
<sup>22</sup> Agreement between Spain and the Netherlands recognising the right to vote on municipal elections to the Dutch citizens in Spain and Spanish in the Netherlands (BOE 8 of august 1990)/ Agreement between Spain and Denmark, recognising the right to vote on municipal elections to Danish citizens in Spain and Spanish in Denmark (BOE de 30<sup>th</sup> of November 1990) / Agreement between Spain and Sweden, recognising the right to vote on municipal elections to Swedish citizens in Spain and Spanish in Sweden (BOE 27th June 1991).

<sup>23</sup> Agreement between Spain and Norway, recognizing the right to vote on municipal elections to Norwegian citizens in Spain and Spanish in Norway (BOE 27th of June 1991)

<sup>24</sup> As we have mentioned we are in this moment currently witnessing institutional changes which do not allow us to draw final conclusions. Therefore, it is important to highlight that some of these arguments might change in the near future. For example, currently (in January 2009) the Council of Ministers have to decide the approval of the agreements of Spain with Peru and Colombia that will give the right to vote to Colombian and Peruvian permanent residents in Spain, in the next local elections 2011. See *El Pais* 16/01/2009: "383.000 colombianos y peruanos podrán votar en las próximas elecciones municipales"

## 2.2 Key-Issues of the Pragmatic debate

In the following sub-sections we will analyse the debate on voting rights. This debate is basically concentrated at the level of application and it is double edged, illustrated in the following graphic:



The first debate concerns the determination of the territorial level based on the different elections. A Spanish citizen has the right to vote in elections at 4 different levels: European level, national level, regional level (Autonomous Community) and local level. The debate revolves around which level a non-EU immigrant should be able to vote. In relation to the second debate, the focus is on the discussion about which legal criteria (nationality, principle of reciprocity or permanent residence) should be the basic form which to grant voting rights to immigrants.

### 2.2.1 The Territorial dimension

As we have said, the Spanish Constitution only allows immigrants from the EU and from countries with the principle of reciprocity to vote in local elections. In order to explain this exclusion, and to reform the Constitution for it to allow immigrants from the EU to vote, the Constitutional Tribunal said in its declaration on the 1<sup>st</sup> of July 1992 that the right to vote at the local level does not affect national sovereignty.<sup>25</sup> It said that local elections must be considered as “administrative”,<sup>26</sup> and therefore the participation of immigrants at local level is not considered to be participation in elected public office related to the exercise of sovereignty.

This interpretation makes it easier to implement the required reform of the constitution as the reform of Art.13 would be sufficient. Article 13 does not require the complex process of constitutional reform (Diez Bueso 2008, 131).<sup>27</sup>

However this has also meant that to extend the voting rights for immigrants to a regional or national level, we will need to reform Article 23 of the Constitution (the

<sup>25</sup> The Constitutional Court is the supreme interpreter of the Constitution (art. 1.1, Law on the Constitutional Court). It is a constitutional court and is independent of all others. It is not a part of the ordinary judiciary, and is subject solely to the Constitution and its own Law.

<sup>26</sup> Declaration of Constitutional Court n° 132.bis, Plenum, the first of July 1992

<sup>27</sup> In order to know more about the two different kinds of constitutional reform, please check page 10 “A constitutional reform”



article related to voting rights) as well as Article 1.2 which states that sovereignty derives from the Spanish people. L. Diez Bueso (2008, 130) argues that granting voting rights to immigrants will only be possible in the short term at local level because of two reasons: firstly because this political level is very important for immigrants due to the proximity of the local council to the neighbours, the services it provides and its strategic position within the integration process. Moreover, the participation at this level can be a first step for future participation at a regional or national level. Secondly, the right to vote at local level directly relates to the only constitutional reform that has been approved since its creation.

However, other authors consider that there is no reason to exclude the voting right to all the levels, even at the national level:

“There is a kind of pessimism in the academic debate (because of the constitutional limitations) that is making academics talk about a reform limited to just trying to get the right to vote at the local level and go no further. This is an error because what the academics are exactly able to do is to go further, they are free to think, and they do not have to be limited by technical or legal aspects. And I think there should be no differences in length of residence between the right to vote in local elections and the national elections, specially if we take into account that it is even easier for an immigrant to know and to be concerned about national issues (by TV, Press, etc) than about local issues that are usually more technical and have less media coverage.” (Interview M.A. Presno, Academic expert in Public Law, 15-10-2008).

In this sense, it seems that the complex constitutional constraints have created a situation where the goal seems to be achieving the right to vote for immigrants at the local level, and hence, the territorial debate seems to be relegated to a second level or considered less important.

### **2.2.2. The Legal dimension**

As we have seen, the state of voting rights of immigrants in Spain is limited by the constitutional framework. The Spanish Constitution explicitly excludes immigrants in Article 13.2 from having the right to vote and to be elected,<sup>28</sup> except in those cases where it is established by treaty or when the law attends to the principle of reciprocity.

For this reason, the debate surrounding the promotion of voting rights of immigrants in Spain is very complex. We can find three main proposals:

- a) A reduction of years of permanent residence needed to obtain Spanish nationality
- b) The promotion and/or reinterpretation of the principle of reciprocity
- c) A reform of the Spanish Constitution<sup>29</sup>

*a) Access to Nationality:* One of the options is to reform the civil code to reduce the number of years of permanent residence that immigrants need in order to obtain Spanish nationality. The Article 22 of the Spanish civil code establishes that in order to obtain Spanish nationality, an immigrant has to prove continued and legal residence for 10

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<sup>28</sup> Spanish Constitution: Article 13.2. Aliens in Spain shall enjoy the public freedoms guaranteed by the present Part, under the terms to be laid down by treaties and the law.

<sup>29</sup> This last proposal aims to make permanent residence the criteria for granting voting rights to immigrants.

years before applying, or two years for Hispano-Americans and other nationalities historically linked to Spain.<sup>30</sup>

This article 22 clearly creates a situation of selection by origin (Zapata-Barrero 2004; 55). In other words, the Spanish civil code establishes a framework of “institutional discrimination” (Zapata-Barrero, 2004; 58-61), which have a direct impact to the political rights dimension (where the preferential nationalities have more facilities compared to the others nationalities to get voting rights).

In this sense, some political voices have proposed to reduce and harmonize this time in order to avoid this institutional discrimination, to make it easier for immigrants to get Spanish nationality and hence voting rights. However, there are different criticisms to this proposal:

In the first place, it is important to remember that to obtain Spanish nationality, for many immigrants, this means having to give up their original nationality (Diez Bueso 2008, 129; Presno 2004, 10). This supposes a very high price to pay for immigrants in order to get to get voting rights, with familiar, legal and personal loss for him. Another reason, for which academics are against this option, is because it goes against the universality of civil rights. In this sense, if we are talking about the legitimacy of democratic public institutions, then we have to recognize that with this nationality option, the democratic institutions are not universal (Diez Bueso 2008, 130). For this reason, it is necessary to consider immigrant residents as part of the people, with all their rights guaranteed (Presno 2004, 10-11).

*b) The principle of reciprocity:* the principle of reciprocity was established with the rights of the substantial number of Spanish emigrants abroad at the moment of the approval of the Spanish Constitution in mind (Zapata-Barrero, 2004; 52):

“In the field of fundamental rights, the principle of reciprocity makes no sense. However it has a logical explanation: when the Spanish Constitution was written, Spain was a country of emigration, and this principle was a measure to put pressure on Germany in order to get the right to vote for Spanish residents in Germany.” (Interview to E. Aja, Academic expert in Constitutional Law, 03-10-2008).

This is why we are talking about a limitation that is not common in comparative law as the conditions required to obtain voting rights is not only linked to the length of residence (Diez Bueso 2008, 132). In other words, this principle is conditioning the voting right of immigrants in Spain, to the rights received by the Spanish emigrants in their countries of origin. This principle is creating a differentiation between immigrants of different origin, giving rise to asymmetrical results that are clearly opposed to the objective of common integration (Solanes 2005, 23). Moreover, if the extension of voting rights is carried out through the promotion of this principle, then a “recognition à la carte” can occur as the government of Spain would be promoting the rights of immigrants based on some criteria of preference, depending for instance on the number of those immigrants, and also on political or economic interests (Solanes 2005, 24).

Another aspect that can be considered is that this principle leaves without voting rights to immigrants coming from countries with a non-democratic regime (Diez Bueso 2008, 132), or from a country where its constitution explicitly forbids immigrants to vote in its elections (such as Ecuador) hence this mechanism will provoke inequalities between

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<sup>30</sup> Article 22.1 of the Spanish Civil Code: For the concession of citizenship it is required a residence in Spain of ten years. Five years will be enough for those who have obtained refugee status and two years for those nationals coming from Ibero-American countries, Andorra, the Philippines, Equatorial Guinea, Portugal or Sephardic (descendants of the Jews that lived in the Iberic Peninsula until 1492).

different groups of immigrants, and legal complexities due to the different related legal regimes, even if many treaties of reciprocity are signed.

Even if this principle is restrictive for the granting of rights to immigrants, while the possibility of constitutional reform remains rejected by the political parties, the reinterpretation of this principle remains one of the main solutions proposed in order to promote the voting rights of immigrants (Solanes 2005, 27). For this reason, a new reinterpretation of this clause of reciprocity will make possible the extension of this right to a large number of immigrants from different countries, that is, it would be possible to allow resident immigrants to get the right to vote even if Spaniards have different conditions and terms in their countries. In fact, such differences already existed between Spain and the Netherlands (before the ratification and transposition of the Maastricht Treaty) where the Dutch only needed three years of residence in Spain to have the right to vote, while Spaniards needed 5 years of residence to get the same right in the Netherlands.

As De la Rosa says (2006, 151-152) in order to respect the constitutional requirement of reciprocity, a legal text could be approved recognizing the right to vote of immigrants coming from countries where Spanish residents were also able to vote, without the necessity of having the same conditions and criteria on both sides. Reciprocity does not necessarily mean “homogeneous conditions”. However, we have to remember that this solution would not be universal, and that many immigrants would not be able to vote. This is why authors like Presno (2004, 9) argues that this principle should be abolished because the rights of immigrants cannot be promoted by international treaties or diplomatic practices, and even less if these rights are fundamental and should be universal in any democracy.

Finally, a last argument against the mechanism of reciprocity is that this process is not only very slow (because it requires long negotiations and other diplomatic steps before the signing of the treaties), but also because even if some agreements have been signed, these need to be ratified or need other agreements to function. Until now, Spanish governments have not made any effort or movement in that direction (Diez Bueso 2008, 132). Following this perspective, Presno remembers that although Spain has signed treaties with Norway, Chile, Argentina, Uruguay and Colombia,<sup>31</sup> today only the Norwegians have the right to vote (See footnote 24). One explanation of the non-ratification of these agreements is that:

“I suppose that the process of promotion and ratification of the treaties of reciprocity was stopped because, when the government saw that after signing the treaties with south-American countries, they did not know how to say NO to Morocco (with problems like in Melilla), they decided to stop the process.” (Interview E. Aja 03-10-2008).

*c) A Constitutional Reform:* The Spanish Constitution is very rigid and difficult to change. This is due to the fact that it was created after a political consensus during the democratic transition between the main political forces, in order to solve important conflicts of the past (conflicts that lead to the establishment of the Dictatorship of Franco in 1939) (Ferrerres Comella, 2000). This is why almost no political party is seriously proposing changing any article of the Constitution, even if it is an article such as art.13.2 that deals with a completely new issue for Spanish society as is the voting rights of immigrants. However, as Miravet (2006, 22) says, the proposal of a

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<sup>31</sup> Agreements of reciprocity between Spain and Norway, Chile, Argentina, Uruguay and Colombia: Canje de Cartas entre España y Noruega de 1990 - Tratado de cooperación y amistad entre España y Chile de 1990 - Tratados de Amistad y Cooperación celebrados entre España y la República Argentina, el 3 de junio de 1988, España y la República Oriental del Uruguay, el 23 de julio de 1992, y entre España y Colombia de 1998

constitutional reform should not provoke any fear in a democracy that considers itself mature. It is only a reform that tries to adapt our fundamental norms to one of the big social transformations that Spain has experienced in the last decade.

Different proposals for constitutional reform have been suggested: Aja and Diez (1999-2000) proposed two options: delete the requirement of reciprocity of Article 13.2, or delete the entire point 2 of Article 13. In order to do so the process of constitutional reform established in Article 167 would have to be followed.

On the other hand, Presno also proposes two other options: The first one would be the modification or abolition of art. 13.2 of the Constitution where it says that “Only Spaniards shall have the rights recognized in Article 23, except in cases which may be established by treaty or by law concerning the right to vote and the right to be elected in municipal elections, and subject to the principle of reciprocity.” This reform would abolish the principle of reciprocity. The removal of this article could be undertaken through the process provided by Article 167 of the Constitution. This reform would need the approval of a majority of 3 / 5ths of each of the Chambers.<sup>32</sup> If the two chambers do not agree, then a Joint Commission composed by Deputies and Senators would be created in order to write a text to be voted by Congress and the Senate. If it is still not approved, but if the text has obtained a favourable vote of an absolute majority in the Senate, then the Congress, by a 2 / 3rds majority, may pass the reform. Once it has been passed it must be submitted to a ratification referendum if it is so requested, within 15 days following its approval, by a tenth of the members of either Chamber. This is the formula that was used to allow European residents to be able to be candidates in local elections. The second option to allow non-nationals to vote in all elections will require, according to the criteria of the Constitutional Court (Statement of July 1 1992, F. 3.c) a modification of Article 1.2,<sup>33</sup> for which we would have to resort to the more complex procedure set out in Article 168: that is, the approval by a 2 / 3rds majority in each chamber, the immediate dissolution of these and new elections held. The elected new Chambers must then ratify the decision and study the new constitutional text, which must again be approved by a 2 / 3rds majority in both chambers. The reform approved by the Cortes Generales (Spanish Parliament), would then be submitted to a referendum for ratification.

### **2.3 The position of political parties and social actors**

In the following section we will analyse the social and political dimension of the debate by considering the position of social and political actors. In this sense there are two kinds of positions: one we can label as conservative, which discusses the acquisition of voting right but without questioning the nation-state paradigm of linking nationality and voting right. Another position, much more progressive, basically draws its arguments

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<sup>32</sup> The Spanish Parliament (Cortes Generales) is made up of two Chambers, the Congress and the Senate, and both Chambers represent all of Spain. According section 66 the Constitution their functions are the exercise of the legislative power of the State, the adoption of its budget, the control of the action of the Government, and the rest of powers granted by the Constitution. However, this two-chamber system does not mean that Congress and the Senate operate on the same level. The Constitution has endowed Congress with a series of duties and powers that demonstrate its supremacy. In this way, Congress authorizes the formation of the Government, has the power to cause its cessation, is the first to know about procedures of bills and of budgets, and must confirm or reject amendments or vetoes that the Senate may approve concerning these legislative texts.

<sup>33</sup> Spanish Constitution Article 1.2: “National sovereignty belongs to the Spanish people, from whom all State powers emanate.”

from the premise that this link can be separated: a person can be granted voting rights without necessarily having been granted Spanish nationality. Taking into account these two discourses, our purpose is to identify their arguments.

### 2.3.1 The social actors

We can consider the following campaign and propositions made by different social actors: the campaign called 1IGUAL1 (one equals one) made by the NGO SOS-Racismo,<sup>34</sup> the campaign made by the trade unions CCOO and UGT,<sup>35</sup> the campaigns of the social actors (*Plataforma tod@s iguales. Tod@s ciudadano@s*).<sup>36</sup> and the *Social Consensus on Migration (Consens Social sobre Migracions)*.<sup>37</sup> We can identify the following key-arguments:

1) *To link voting right with residence*: SOS-Racismo makes three basic demands: 1) the right to vote for immigrant residents older than 18 years old. 2) To delete the condition of nationality in order to qualify for the right to vote and equalize the rights of communitarian and non-communitarian citizens. 3) To be able to justify residence with the local “empadronamiento”.<sup>38</sup> On the other side the *Platform all equal, All citizens* mentions an additional three points: “1) the right to vote and to be elected in municipal and European elections must be recognized in order to compare their situation to the national residents of the countries of the European Union. 2) The right to vote must be extended to political participation in autonomous and state elections, in order to create a concept of citizenship linked to residence and not just to nationality. 3) All legal obstacles concerning full rights of citizenship should be abolished, because the concept of citizenship includes more than political nationality.”

2) *Against the principle of reciprocity*: What all the social actors have in common is their opposition to this principle. For example, the *Platform* and the *Consens Social sobre Migracions* (Social Consens about Migration),<sup>39</sup> consider the principle of reciprocity as an unfair mechanism that instead of promoting the right to vote will create political differences and inequalities in rights between groups of immigrants. The trade unions CCOO and UGT demand also the right to vote to all immigrants without any kind of discrimination based on origin, culture or bilateral relation between two states or two governments. This is why they consider that to limit the right to vote to the principle of reciprocity will lead to a non-cohesive and desegregated society.<sup>40</sup>

3) *Demand for a constitutional reform*: All the social actors propose a modification of the Constitution and specifically Article 13.2. However the CSM goes a little bit further

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<sup>34</sup> Campaign of the NGO SOS-Racismo for voting right of immigrants :

<http://www.sosracismomadrid.es/derecho-al-voto.html>

<sup>35</sup> See *El País* of 20/02/2008 “Sindicatos y ONGs reclaman el derecho al voto para los inmigrantes” that talked about the demand of Platform for a citizenship of residence (18 NGO with the support of trade unions like CCOO) asking for the right to vote for immigrant people.

<sup>36</sup> Manifiesto of the Platform for a citizenship of residence (Plataforma Tod@s iguales. Tod@s ciudadano@s): [http://www.acoge.org/descargadocs/manifiesto\\_ingles.doc](http://www.acoge.org/descargadocs/manifiesto_ingles.doc)

<sup>37</sup> For more information see: <http://www.consensosocial.org/home2.htm>

<sup>38</sup> The municipal *padrón* is the official record of all the people who live in a particular municipality, By law, everyone who resides in Spain should be registered in the city of living.

<sup>39</sup> For more information see: <http://www.consensosocial.org/home2.htm>

<sup>40</sup> Ghassan Saliba Zeghondi - Secretario de Inmigración de CCOO de Catalunya

proposing not only a modification of Article 13.2, but also of Article 6.1 of the Law on the Rights and Freedoms of Aliens 4/2000 (reformed by the Law on the Rights and Freedoms of Aliens 8/2000 and 14/2003) regarding rights and freedoms of immigrant people in Spain. Using the reform process of Article 167 of the Constitution, they propose to delete Article 13.2 in order to permit voting rights at the local level.

4) *Defence of voting rights as an element for the full integration of immigrants:* SOS-Racismo considers that the concept of citizenship should be linked to residence and not to nationality. They argue that we cannot have universal democracy and real integration if we deny the right to vote to part of the population. Moreover, this exclusion treats immigrants as “second level” citizens. For them, “If Spanish democracy wants to take a step forward, it will need to give the right to vote to immigrants as many other European democracies have already done”.<sup>41</sup>

5) *Length of residence to get voting rights:* CCOO considers that any immigrant should have the right to vote and stand in any kind of election, although their priority is to get it at least at the local level. This is why they campaign for the right to vote in local elections for immigrants after 5 years of residence without discrimination based on nationality, culture or religion.<sup>42</sup> On the other hand, the trade union UGT campaigned for the right to vote for immigrants after two years of residence for local elections, and after four years for national elections. For the General Secretary of UGT Mr. Alvarez, the present situation is not only denying the recognition of immigrants, but is also providing a basis for some politicians to use immigration during the electoral period for their electoral interests.<sup>43</sup>

6) *Different options of residence criteria:* Finally, the CSM proposes four options: 1) Make permanent residence and legal residence the same. Legal residence implies a desire to stay, as regulated in Article 3 bis of LO 4/2000. In this way, the right to vote would be linked with legal residence, as happens with the right of association, meeting, trade union. 2) To get permanent residence after one year of legal residence. Under this option, the way to get the right to vote will be the same than that required to get the right of family reunification. 3) To get voting rights after the same years of permanent residence needed to get Spanish nationality for this, the present discrimination that exists in order to get Spanish nationality would have to be solved. 4) To get the voting rights after getting permanent residence requires 5 years of legal residence (Article 71 and 74 of the Royal Decree 2393/2004).

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<sup>41</sup> Campaign of Sos-Racisme 11GUAL1 (1 Equal 1): [www.sosracisme.org/accions/campanya.php](http://www.sosracisme.org/accions/campanya.php)

<sup>42</sup> Press Release on the CCOO web: “CCOO de Catalunya, SOS Racisme i entitats d’immigrants presenten un manifest sobre la situació de la immigració”.  
<http://www.ccoo.cat/aspnet/noticia.aspx?id=102991>

<sup>43</sup> *El País* 06/03/2008 “Campana electoral: UGT reivindica el derecho a voto de los extranjeros residentes en España”

### 2.3.2. The Parliamentary Debate

Both, the conservative and the progressive discourses, take different positions on the double-edged debate on voting rights. In the next table we can see the basic arguments of conservative/progressive positions at each dimension of the debate:

	<b>Conservative position</b>	<b>Progressive position</b>
<b>The Principle of Reciprocity</b>	The principle of reciprocity guarantees that Spanish citizens abroad will have the same rights than immigrants have in Spain.	This mechanism should be avoided because the rights of a democracy can not depend on the rights of another country. Moreover this principle discriminates between immigrants of different nationalities.
<b>A Constitutional reform</b>	No constitutional reform should be done, because the principle of reciprocity and the access to Spanish nationality are good mechanisms to get the voting right.	A constitutional reform of Article 13.2 should be done in order to guarantee the voting right of immigrants after a certain time of residence.
<b>Vote related with residence</b>	Voting rights should not be related to a certain given length of residence but to access to nationality.	Length of residence is the best mechanism to give voting rights to immigrants because it is an indicator that an immigrant wants to stay, to be integrated and to become a citizen.
<b>The Access to Nationality</b>	The present system of getting voting rights at the same time as getting Spanish nationality is fair.	Voting rights must not be related to the access to nationality but to the length of residence

The political debate about voting rights started in 2002 and has been led, until today, by the different parliamentary proposals that Izquierda Unida-Iniciativa per Catalunya Verds (Green United Left Party) have made. two of these parliamentary propositions have led to a political debate in the Congress of Deputies: the *Parliamentary Proposition of the 25 of May 2004* (debated in parliament in March 2005) *about the recognition of the right to vote and stand as a candidate for foreign citizens in Spain*, where IU asked the government to make the necessary normative modifications in order to allow the right to vote for all immigrants in all elections, after one year of permanent residence for local elections and after three years for the rest.

In the *Parliamentary Proposition of January 2006* (debated the 21st of February) *in order to advance the recognition of the right to vote and stand as a candidate for the foreign citizens in Spain*, IU asked the government to study the necessary legal reform required in order to allow immigrant residents in Spain to participate in the following local elections, regulating the right to vote as a way of political participation and social integration, and proposing a dialogue on this issue with all the parliamentary groups, with the autonomous communities, local governments, social actors, NGOs and immigrant associations.

The fact that the first proposal was progressive and innovative, and the second moderate, allows us to see clearly the position of each party on this issue, and to present the conservative and progressive arguments that appeared during the two debates:

1) *The Convention on the participation of foreigners in public life at local level as an argument for the promotion of voting rights of immigrants:* In the two proposals IU pointed out that Spain is one of the countries that is not abiding by the European

treaties on this issue, as it has not ratified the *Convention on the participation of foreigners in public life at local level* and it is not following the recommendations of the *Handbook on Integration*.<sup>44</sup> Moreover, they draw attention to the fact that Spain cannot ratify this Treaty (that promotes the right to vote for immigrants after 5 years of residence), because the Spanish Constitution does not permit it. In this sense, they ask the government to follow the example of Denmark, Finland, the Netherlands, Norway, Sweden and Island, countries that have already ratified it. During the debates, parties like the Nationalist Basque Party (PNV) and Canarian Coalition (CC) were in favour of recognizing and taking Article 6.1 of the *Convention on the participation of foreigners in public life at local level* (approved in 1992 but not ratified until 1997) that established 5 years of residence of immigrants in order to vote in local elections.

2) *Nationality and Voting right*: The PP (Partido Popular) defends the current constitutional set up that restricts voting rights to Spaniards and those immigrants from a country with reciprocity agreement. They defend Article 13 of the Constitution because it defends the idea of “Nation-state” that means that only those who are nationals from this state will feel identified and will be loyal to the state. This is why they point out that this article is linked to the concept of sovereignty, and they said that in Spain there is “only one citizen body that has the legitimacy of national sovereignty: the Spaniards. National sovereignty resides with the Spanish people. The parliament is the chamber that represents the Spanish people. The “Cortes” are the chambers that represent Spanish sovereignty”.<sup>45</sup> Finally, they conclude saying that the acquisition of nationality is an adequate process through which to gain full citizenship and political rights.

Also, CC argued that if the first proposal of IU (asking for the right to vote after one year of permanent residence) was accepted “we would fall into a denaturalization process of all the principles of rights of citizenship and rights of identity” and we “can hurt the nature of the democratic and representative system”.<sup>46</sup>

3) *The Principle of Reciprocity*: IU criticizes the principle of reciprocity because for them, this principle not only means that democracy and voting right of immigrants are promoted by international agreements, but also because these agreements are not ratified for example those with Chile, Uruguay, and Argentina. Moreover they argue that this principle does not allow the right to vote to immigrants coming from countries with a dictatorial regime, which means that this principle promotes the “extraterritoriality of dictatorships” (that means that immigrants coming to Spain from dictatorial regime come with “the bag of the dictatorship”).<sup>47</sup>

On the other side, the PP defends the principle of reciprocity saying that if we grant the right to vote to an immigrant coming from a country that does not recognize the right to vote to Spanish residents, it could be considered discriminatory, but towards the Spanish citizens. For them, this principle of reciprocity has to be maintained because it works as a guarantor for the equality between Spaniards and immigrants. During the

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<sup>44</sup> Handbook on Integration for policy-makers and practitioners (European Commission, 2004): [http://ec.europa.eu/justice\\_home/doc\\_centre/immigration/integration/doc\\_immigration\\_integration\\_en.htm](http://ec.europa.eu/justice_home/doc_centre/immigration/integration/doc_immigration_integration_en.htm)

<sup>45</sup> The Cortes refers to the “Cortes Generales” or Spanish Parliament, made up of the Congress and the Senate, and both Chambers represent all of Spain. See footnote 31.

<sup>46</sup> See debate on the Parliamentary Proposition to extend the right to vote in municipal elections to foreign legal residents by the Parliamentary Groups of the Socialist Party and Izquierda Unida-Iniciativa per Catalunya Verds (Green United Left Party) of 16 of August 2006.

<sup>47</sup> Idem.



second debate the PP continued with its discourse, defending the principle of reciprocity and international agreements because in their opinion this principle does not go against the principle of equality and is not discriminatory, but rather, it is an action that appeals to common sense and pure logic.

4) *Length of residence*: The PNV argues that IU was going too far on the recognition on voting right by suggesting such a short time of permanent residence, but they considered this proposal as an interesting one because it searched for new ways of immigrant integration. Moreover this would require a reform of Article 13.2 of the Constitution, which is exactly what the PNV considers it should be done.

On the other hand, CC disagreed with the proposal of IU because there is no guarantee for immigrants' integration within just one year. However they accept 5 years for local elections because they considered that after 5 years immigrants may have settled or integrated into the economical, social and cultural values of these local governments.

5) *Voting right as an element of Integration*: For IU the promotion of voting rights would make everyone equal (with the same privileges and the same obligations), and would "implicate everybody in the *res publica*, in the public thing".<sup>48</sup> Moreover they present the promotion of this right as a vaccine against xenophobia.

6) *The nationalist cleavage*: The nationalist parties of Catalonia, Esquerra Republicana per Catalunya (The leftist Republican Party of Catalonia – Independentist Party) Convergència i Unió (Nationalist Catalan party) consider that democracy can only be exercised with common values, based on fundamental rights and with a minimum identification with the citizens and the language of the country. They consider that to get nationality and permanent residence depends not only on time but also on the knowledge of the language or the history of the country. This is why they condition voting rights of immigrants to the completion of courses and citizenship exams that evaluate their integration into the receiving society. For them, the priority is integration and later participation, arguing that the crisis of integration in the Netherlands shows that this right will not guarantee immigrants' integration.

On the other hand, ERC used this debate (during the time that the *Estatut de Catalunya* was being negotiated),<sup>49</sup> to advance their demands on the finance competences of the government of Catalonia, by arguing that it is better to receive immigrants with better regional financial competences than granting them political rights.

7) *Position of the Government depending on the political context*: The PSOE said they disagreed with the first proposal of IU because it violated art.13.2 of the Constitution and because "in an unrealistic way, it was giving all the rights to immigrants, and proposing something unknown in comparative law". Moreover it argues that voting rights of immigrants is not such a clear factor promoting integration based on the fact that The Netherlands, Ireland, Sweden, Finland and Denmark also have voting rights for immigrants but they are still having problems of integration. But

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<sup>48</sup> See the debate of the Parliamentary Proposition of January 2006 (debated the 21st of February) in order to advance in the recognition of the right to vote and to stand as a candidate for the foreign citizens in Spain

<sup>49</sup> The *Estatut de Catalunya* (Statute of Autonomy of Catalonia) is the Catalonian basic institutional regulations. It defines the rights and obligations of the citizens of Catalonia, the political institutions of the Catalan nationality, their competences and relations with the Spanish State and the financing of the Government of Catalonia.

one important factor, external to this debate, was that during this same period the PSOE was making an important process of regularization of immigrants that provoked intense public debate. Probably this is why, during this debate, the PSOE said there had to be a realistic, calm, serious debate, without demagogy or partisanship in order to take decisions on the voting issue.

However, the PSOE agreed with the second proposal of IU because they said “it searched for a consensus of all the parties and social actors, it gives importance to the integration of immigrants, and it seeks agreement, and hence co-responsibility, of all the parties in its creation and development”.<sup>50</sup> However the approval of this parliamentary initiative was only a declaration of intentions (study the promotion of the principle of reciprocity or the possibility of the time of residence as a way to promote voting right)

As we can see, the prospects of reform are linked with the possible consequences, or more precisely, in the electoral consequences. The important fact here is that the electoral interests of the PP and the PSOE play an important role in a possible reform. However, we cannot make the mistake of misunderstanding the political interests of each party. In fact, studies have shown that granting the right to vote to immigrants should not alter electoral results. The results would be more or less the same (Miravet, 2006; Martínez de Lizarrondo, 2004).

Taking this into account, it is important to understand that the PSOE is implementing this reform step by step because it is concerned about the reaction of the native electorate. The political strategy of the PP is to try to convince the undecided electorate that the PSOE is not defending their interests but prioritizing the immigrants’.

In other words:

“The electoral behaviour of the immigrant is very similar to the native vote.. But now, in times of crisis, it is possible that the natives (specially the people with less resource and are more affected by the immigrants) will believe the discourse and think that if a party is promoting voting rights of immigrants this means it is more worried about the immigrants’ interests rather than their interests. And this can affect the electoral results and can make parties afraid,, particularly the leftist ones that promote voting right.” (Interview M.A. Presno 15-10-2008)

The debate about political rights has today resurfaced. The government announced in a Senate session in September 2008, its demand to the Council of the State a report about the main proposals of reform of the electoral regime and its constitutional constraints. Moreover they announced that in order to promote the signature of treaties of reciprocity with other countries, the Council of Ministers, in its meeting of the 14<sup>th</sup> of august agreed to name an ambassador (Gonzalo de Benito Secades, ex-ambassador of Spain in Switzerland) for the negotiation of these treaties.<sup>51</sup>

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<sup>50</sup> See Footnote 47.

<sup>51</sup> For more information see the Boletín Oficial del Estado of the 19<sup>th</sup> of September:

<http://www.senado.es/legis9/publicaciones/pdf/senado/bocg/I0071.PDF>

*La Vanguardia* 14/08/2008: “El Gobierno nombra al embajador que negociará el voto de los inmigrantes”

### 3. Institutional channelling: The Foro para la Integración de los Inmigrantes

On its establishment, in 1995, the *Forum for the Social Integration of Immigrants (Foro para la Integración de los Inmigrantes)*<sup>52</sup> was defined as a “body of a consultative nature, with capacity to issue reports and recommendations and to adopt agreements on its own initiative or by a nonbinding consultation with the Administration” (Royal Decree 490/1995). Later, in 2001 it was redefined as a “consultation, information and assessment body of the Government in matters concerning the integration of immigrants” (Royal Decree 367/2001), this meant a reduction in the competences it had in 1995. From its foundation until 2000, the FII was institutionally ascribed to the Ministry of Social Affairs, but that year it passed to form part of the Ministry of Internal Affairs, which was an indicator that the Government was willing to carry out more restrictive policies in the area of immigration. In 2006, after the electoral victory of the Socialist Party, the FII was again moved to the Ministry of Employment and Social Affairs.

The composition of the FII has undergone three changes during its existence. It initially started with 30 members, and was reduced to just 24 members after the Royal Decree of 2001, and raised back to 30 members in 2006. Its composition is divided into three kinds of actors with ten representatives each. These are Public Administration (from the Central Administration, Autonomical Administration, and local administration),<sup>53</sup> social organizations (where the trade unions and employers organizations are represented), and immigrant associations. In addition it has a President, Mr. Cachón, two vice-presidents and a secretary. The President is named by the Ministry of Labour and Social Affairs and proposed by the Secretary for Immigration.<sup>54</sup>

Another important change concerns the Vice-Presidencies. Until 2006, the two vice-presidents were named by the government, however since the RD 3/2006, one of them is chosen by and from amongst the representatives of the immigrant associations and social organizations, and the other is the Director General for the Integration of Immigrants of the Labour and Social Affairs Ministry.

With respect to the appointment of spokespersons representing the associations of immigrants and refugees and social support organisations, the selection is made by the Ministry of Employment and Social Affairs based and is carried out following these criteria: the statutory objectives of the association, level of territorial outreach, their experience in the development of programmes and related activities, the efficacy and efficiency of previous programmes carried out through subsidies, their management structure and capacity, and their representative nature in relation to the number of immigrants in Spain.

Partly due to these selection criteria the role of immigrant associations has been weak. Their participation is conditioned by their economic dependence on public authorities, the moderation of their discourse (negotiation and reform versus rupture and conflict)

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<sup>52</sup> For more information see: <http://www.mtin.es/es/migraciones/Integracion/Foro/index.htm>

<sup>53</sup> 6 members for the Central Administration: the Cooperation and Foreign Affairs Ministry, the Internal Affairs Ministry, Ministry of Education and Science, Ministry of Labour and Social Affairs, and the Public Administration Ministry; Two members of the Autonomical Administration and two of the local Administration.

<sup>54</sup> From 2001 to 2004 the President of the FII was named by the Ministry of Internal Affairs and proposed by the Delegate of the Government for Foreigners and Immigration

and the adequacy of its activities with the expectations of the institutions (assistance and cooperation rather than to fight and claim) implies the inclusion of the organization in official channels of dialogue as well as access to economic resources (Gonzalez-Enriquez, 2005; 27). The acceptance of this logic does not explain the rare combination of charismatic leadership, lack of transparency, and the absence of internal and participative political culture within the associations (Veredas, 2003; 212). In any case, the shortcomings in the functioning of the FII have been mainly due to the lack of willingness to articulate a consultation body at the national level, not only on social integration but also on immigration policy.

However, it is important to take into account that since the approval of the Royal Decree 3/2006 on the 16<sup>th</sup> of January 2006, the FII enlarged its consultation capacity and participation capacity. In this direction the FII recovered some competences such as the possibility to promote and elaborate studies and initiatives related to the social integration of immigrants, and also the capacity to promote reports about the proposals, plans and programs related with immigration (not only when asked by the central administration but also on its own initiative). This decree also added two other important competencies: 1) the possibility to cooperate with other agencies to coordinate different actions related with integration. 2) Central administration has to previously consult with the FII plans and programs related to the integration of immigration. J.A Jimenez (Member of the Migration Secretariat of the trade union CCOO, Interview 03-11-2008):

“It is an autonomous body that does not publicize itself, it doesn’t comment on isolated events, but does an analysis of structural issues. It does not respond to sensationalist issues. The FII works in commissions, it works in detail and in depth. It is not a body that searches for media attention, using isolated events, but it endeavors to create, with the everybody’s collaboration, elaborate and objective reports and analysis addressed to the general public and to the administration. It is a body of reference for the government regarding issues related with immigration”

On the other hand, the decree of 2006 also made changes to the composition of the FII, increasing it again to 30 members, ten for each group of actors. The objective is to increase the number of immigrant and social associations, and include a representative from the Ministry of Education and Science, and another from the Institute of Women. These changes, and above all the previous consultation, can contribute to reactivate the FII as a platform of participation and consultation, and are improving the representativity and role played by the immigrant associations. J.A Jimenez (interview 03-11-08):

“There is a very important mix of associations, interests and opinions. In this sense, the FII has the virtue of searching for a consensus between immigrant associations and other social actors. This permits them to agree on common criteria and proposals that help the administration know about the real situation of immigration in Spain. The FII is not just a dialogue but it also creates common proposals.”

Based on the report of the *Forum for the Integration of Immigrants*, we can establish the main social concerns and themes related to immigration in the following categories: reception, education, employment, housing, social services, health, childhood and youth, equal treatment, women, participation, awareness, co-development and asylum. Basically, their demands are: a larger administrative capacity to manage matters related to immigration, wider competencies for providing continued guidance on equal rights and duties, and the necessary resources for greater participation of immigrant groups.

There is also special emphasis in considering immigrants not only as economic actors, but also as social and political actors. At the same time this body provides immigrant associations with the chance to criticize the government for not concentrating its efforts in the aspects directly related to the improvement of immigrants' conditions and opportunities.

In early 2007 an important positive point for the integration of immigrants was the reactivation of the FII, as a body that links the government with civil society, completing the structural definition of a political system in the field of immigration. The first major activity of the FII was the development of the first *Report on the situation of the Social Integration of Immigrants and Refugees in 2007*. This report establishes the main social topics related to immigration. This has been unusual given that since the establishment of the FII in 1994, there has been no way of creating a social agenda capable of guiding the governments' program, or to legitimate the demands of the social sectors.

This reactivation is reflected in the words of J.A Jimenez (03-11-2008):

“The success of the FII is due, on the one hand, to its President lack of interest in being in the media, but rather elaborate proposals that help the administration, but also due to the fact that the FII, in its different commissions of work (on different issues), follows a process of discussion and elaboration, with a consensus, and they debate and prepare everything in the commissions before going to the plenary. This makes the FII not opportunist, nor interested in being in the media. In fact, the FII places so much importance in the consensus that the report of 2008 needed 6 months of elaboration before being presented.”

However, the fact that the FII is not an opportunist body that appears during media events related with immigration, it seems that this virtue can also be problematic:

“The problem is that the government does not use the elaborated reports made by the FII. For example, the Plan of Integration is one of the best works made by the FII. It has been debated, approved by the government and presented, but after that, the government does not use it in their discourse, in their declarations. There are good plans and reports made by the FII, in issues like health, education, but afterwards the government does not use them or talk about them in public. It does not explain nor show to the public this consensus and cooperative work made in the FII. It does not talk about this good plan that has the support of all the members of the FII. It does not use it to answer to the criticism of the other parties.” (Interview to J.A Jimenez, 03-11-2008)

On the other hand, the spirit of the FII to always search for a consensus and to work towards proposing policies for the integration of immigrants seems at times to prevent its “critical capability” towards the actions and/or policies of the government” (J.A Jimenez, 03-11-2008).

Apart from that, the incorporation of Romania into the EU will probably lead to a change in the composition of the FII. This incorporation poses important questions; for example: Do we still have to consider Romanians as immigrants? Should they be considered in the FII as pro-immigrants?

Also, in order to improve representations and social cohesion some reforms could be introduced related to its composition, for example (J.A Jimenez, 03-11-2008):

“The possibility to invite associations to be present in the FII or to create a rotary formula that permits more associations to be in the FII.”

As we have said before, one of the commissions of the FII revolves around the debate on the political rights and participation of immigrants in Spain. The conclusions of this

commission, summarized in the *Report on the situation of the Social Integration of Immigrants and Refugees in 2007*, are the followings:

- 1) The active participation of immigrants in all social spheres and public matters is the key element in order to guarantee equality in rights and duties with the native people.
- 2) The participation of immigrants can not depend on their nationality but should be promoted in all the different ways of civil participation. This will not make immigrants feel part of the new urban cultural set up but also motivate them to contribute and to provide possible solutions to the problems that affect current coexistence.
- 3) It is also necessary to establish common criteria in order to overcome the existing disparities in immigrant participation between the different Autonomous Communities.
- 4) To promote the participation of immigrants it is necessary to encourage a political culture and provide an education on the democratic values of the Social rule of Law, by providing resources that encourage and strengthen associationism.
- 5) The visibility of migrants in the public function is essential to end with stereotypes and to carry out political pedagogy. In this sense, access to public posts cannot be limited by nationality and there must be greater visibility of immigrants in public administration such as schools (teachers), security corps (police), Hospitals, etc.
- 6) The right to vote is considered as an essential right in order to achieve full integration. In order to encourage the debate on this important issue, it is necessary to search for solutions to the limits that Art. 13.2 of the Spanish Constitution places on granting immigrants participation rights in municipal elections. A reform of this article should take place, independently of the promotion of bilateral agreements of reciprocity. Finally, the FII made a petition to the government to ratify the *Convention of the Council of Europe on the participation of foreigners in public life at local level* in order to promote the voting rights of immigrants following the criteria of length of residence (permanent residence).

In October 2008, the *Report on the situation of the Social Integration of Immigrants and Refugees in 2008* was approved in a plenary session of the FII and made public. This report is structured in three parts:

The first one presents a summary of the recommendations made in the Report of 2007, in the twelve areas of the *Plan Estratégico de Ciudadanía e Integración 2007-2010*, a state of the art of these issues and an analysis of the policies made based on the recommendations.

The second part has five monographies elaborated by different organizations represented in the FII, these are about: 1) taking root in the local community; 2) family reunification; 3) Employment; 4) Gender violence and immigrant women; 5) Asylum.

Finally, the last part of the report presents the twelve points that the FII considered should be the government priorities on immigration and integration in this new Legislative period,. In this last part, the Report summarizes the opinion of the FII on the politics that affect the integration of immigrants in Spain and in Europe and on matters that should constitute the principal priorities of immigration political discussion in Spain over the next years.

In the Report 2008, the FII estimated that none of the recommendations about political rights and participation had been met and for this reason these should be maintained and developed as a priority.

For the FII, the principal challenge for the future is to consolidate and to perfect, on one hand, the already recognized rights and, on other hand, to advance in the recognition of rights that not all groups of society have. In this sense, one of the rights that should be

recognized is the political rights of participation, and specially the rights to vote and to be elected in local elections without any kind of restriction.

This is why the FII will follow the work of the Subcommission created from the Constitutional Commission of the Congress of Deputies for the study of possible modifications to the general electoral legislation.

Also, the FII will request to the Ministry of Foreign Affairs and Cooperation information about the negotiations carried out by the “Ambassador in Special Mission for the Negotiation of Agreements of electoral participation of non communitarian foreign nationals in local elections”, created by the Royal Decree 1428/2008, of the 14th of August. In the case that the above mentioned Commission should not reach a legal solution for the full recognition of voting right of immigrants in local elections, the FII suggests that Article 13.2 of the Spanish Constitution should be reformed.

At the same time, the FII considers necessary the reform of the Civil Code in order to make possible the request for Spanish nationality once permanent residence is granted, that is, when one has resided for a period of 5 consecutive years in Spain.

#### **4. Case Study: Comparison on the Management of Immigrant Associations between the Councils of Madrid and Barcelona:**

In this last section, our study will focus on the analysis of the similarities and differences between approaches to the management of immigrant associations in Madrid and Barcelona. We will explore to what extent immigrant associations participate in the consultative bodies of each city and which mechanisms they have to make their claims and demands to the local city administration.

##### **4.1 The Foro Madrid de Diálogo y Convivencia and the Mesas Distritales de Dialogo y Convivencia:**

*The Foro Madrid de Diálogo y Convivencia (FM)* and the *Mesas de Diálogo y Convivencia Distritales de la Ciudad de Madrid*,<sup>55</sup> are the agencies of debate in Madrid in which immigrant associations are able to participate. The *Plan Madrid de Convivencia Social y Intercultural 2004-2007* (Plan Madrid of Social and Intercultural Coexistence 2004-2007) established these agencies of participation, after a process of discussion between different social entities, which led to its approval in May 2006.

The process which led to the creation of the plan has been an important element in the promotion of immigrant associationism in Madrid:

“There was an important participative process in the elaboration of the plan, with more than 500 people participating. Moreover, for this process of participation a process of registration of the immigrant associations was established, which was a success in promoting associationism. Before this process there were just a few associations of immigrants registered in the Council of Madrid but now there are many of them. Also since 2004, there has been an enhancement of the participation of immigrant associations in the elaboration of co-development programmes, which is very important because until then, those associations that presented proposals for these development projects were pro-immigrant but not of immigrants.” (Interview to C. Giménez, Academic expert, 03-11-2008)

The FM can be defined as a forum which provides advice and presents proposals, on issues related to the intercultural social coexistence, diversity and migration. Its *raison d’etre* is to facilitate the participation of social organizations and public and private entities of Madrid in the municipal activities related to these matters.

The main objectives of the FM are: a) to advise and consult the different bodies of the City Council on matters related to intercultural social coexistence, diversity and migration. b) To promote and protect social and intercultural coexistence. c) To coordinate the actions between the different entities that makes up the FM. d) To enhance the implementation of policies aimed at defending the rights of individuals, non-discrimination and to fight racism and xenophobia. e) To promote the realization of studies, reports and actions on matters within its competence.

f) To consider and raise the proposals and queries submitted by the *Mesas de Diálogo y Convivencia Distritales* and the Territorial Council of the districts to City Council

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<sup>55</sup> They are bodies of participation that could be translated as Forum of Madrid of Dialogue and Coexistence, and District Tables of Dialogue and Coexistence of the City of Madrid. The “Mesas” have the same function and objectives that the Foro Madrid but in District sphere. There are 21 “Mesas”, one for each District of Madrid. For more information see: [www.foromadrid.eu](http://www.foromadrid.eu)



(district Plenum, Areas of municipal government, the House Madrid City Hall); do their monitoring and reporting about their resolution.

One of the specificities of the FM is its system of composition. The associations that make up the FII have not been chosen by the local administration but by an electoral process. In order to stand for election the associations and social entities must be registered with the Municipal Record of Civil Entities of the Directorate General of Civic Participation of the City Council of Madrid. All association candidates in elections must choose between appearing as “ONG and entity of support” or “Immigrants' Association”.

The Plenary of the FM is composed of a President (the Director of the Department for Immigration and Development of the City Council of Madrid or an expert appointed by this Director), two Vice-Presidents (one representing the social organisations, and the other only exists when the Director for Immigration has delegated his or her seat to an expert), and sixty-four representatives of which: nine are from the public administration (seven from the local administration, one from the autonomous administration and another from the Central one), twelve are from social organizations (political parties, trade unions, employers organization, Federation of fathers and mothers), twenty from associations (ten pro-immigrant NGOs and ten immigrant associations), and twenty-three others (twenty-one representatives of the Mesas, one from the regional Foro of immigration, and one from the national FII).

The FM, just as the Mesas, are bodies mainly of dialogue between social organizations and immigrant associations of Madrid:

“Sometimes the immigrant associations make proposals and demands that finish in declarations. Moreover, a good thing is that the council of the city is obliged by law to respond to all the proposals that the immigrant associations are making. However, the FM is a body of dialogue and debate, but it is not a body or a clear mechanism where the immigrant associations can present their demands and proposals.” (Interview C. Giménez 03-11-2008)

This is why we could say that in Madrid, there is no real organization that defends and promotes the interest of immigrant associations:

“I think immigrants will say that their proposals and demands are not defended and protected in these bodies. However, this impression is comprehensible because these bodies have not been created to promote the immigrants demands but to promote dialogue on problems like coexistence, discrimination, racism and this kind of problems in society.” (Interview C. Giménez 03-11-2008)

However, the fact that Madrid is currently in a transition period as it is in the middle of elaborating the *II Plan Madrid de Convivencia Social y Intercultural 2009-2012*, means that even though this platform of participation just started functioning two years ago, it is possible that this new Plan will introduce important reforms:

“we are in a changing period, because the Plan 2004-2007 is going to be substituted by a second Plan. It is possible that there are going to be important changes with the next plan.” (Interview C. Giménez 03-11-2008).

The evidences seem to show that there will be no improvement in the representativeness or participation of immigrant associations in the Council of Madrid:

“The support to the mesas has been reduced, there are fewer resources, less support from public administration, and less technical support...these indicators might be showing that in future these mesas will disappear. But it is not certain.” (Interview C. Giménez 03-11-2008)

However, the City Council guarantees:

“The FM and the Mesas will be maintained in the II Plan, being the main space of participation. We would like to emphasize that the Mesas are still working and contributing on the promotion of intercultural coexistence in Madrid, making numerous proposals, suggestions and actions by its participation in the FM, as well as in the meetings that take place every 2 months (one for each district, there are 21 districts in Madrid) with the rest of the members” (A. Gil, Policy Maker of the City Council of Madrid, email 25-11-08)

#### **4.2 The Consell Municipal d'Immigració de Barcelona:**

In Barcelona, the main consultative body related to immigration is the *Municipal Council on Immigration of Barcelona*.<sup>56</sup> This Council was created in 1997 and was initially made up of 16 entities. During this period its activity has been intense. It has elaborated different documents, organised debates and proposed recommendations on the different plans for action of the City Council. At present, the CMIB is composed of 38 entities it includes representatives of the entities of immigrants, representatives of the political groups in the City Council, experts on the topic of immigration and municipal council technocrats. Its function is to promote the participation of immigrants in municipal life across all the aspects that affect them.

The objectives of the Council are basically: a) To promote associacionism. b) To ensure that all immigrants' groups are present in this participation body. c) To actively cooperate with the City Council of Barcelona in order to develop, to continue and to evaluate municipal policy related to matters regarding the well-being and the quality of life of immigrants. d) To study and to make reports on issues of interest to immigrants.

In fact, in Barcelona there is a real interest in the promotion of immigrant associacionism:

“we believe that immigrant associacionism is an expression of the growing diversity of our city and increase and enrich the already existing and historical associative network of the city. Immigrant associacionism is very extent and diverse (small associations or big federations that include many associations, the ones that just want to do parties, others that want to provide services, sport, legal aspects) this is why we want to enforce the associative network, connect it to the participatory structures of the city, connect it with the other associations of the city. Include them in all the activities of the city. And we want to promote the immigrant activities, permit them to organize activities.” (Interview to R. Sanahuja, Policy-maker at the local level, on the Department of Immigration within the Council of Barcelona, 15-10-2008)

The Council is made up of representatives from the City Council, representatives of immigrant associations and federations, and representatives from local civic organisations, trade unions and cultural associations of the city that have representatives and/or specific groups dedicated to immigrant issues. To belong to the Municipal Council of Immigration of Barcelona, entities must request membership and must fulfil the following conditions: 1. To be legally constituted and to be a non-profit entity. 2. They must demonstrate that they have been active for a minimum of two years before requesting to be incorporated into the Council.

On the other hand, the City Council of Barcelona believes that the transversality between its different departments will improve immigrant integration. This is why this

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<sup>56</sup> For more information see: <http://www.bcn.es/diversa/consellcast.htm>

transversality is reflected in the invitation for immigrant associations to participate in the different participatory bodies of the city:

“We try to promote transversality. Depending on which issue the immigrant association is working on, the secretary for immigration delegates the work to the department of sport or culture (for example when an immigrant association tries to make theatre). Moreover, when the immigrant associations are more organized and professional they participate too in other bodies of participation, like in the Council for woman, the Council for young people, Council for co-development, in the Councils of Districts, the Council of the city.” (Interview R. Sanahuja, 15-10-2008)

City Council representatives, do not wish to accept that they follow a specific model of integration, instead:

“We do not follow a model. We just try to follow these two principles: a) we assume the diversity and we respect it as well as the equality of rights. b) We recognise diversity. (Interview R. Sanahuja, 15-10-2008)

However, although they do not name their approach, it seems clear that they follow different principles than the City Council of Madrid:

“In Madrid, they have another philosophy. They seem to prefer to concentrate immigrant associations by nationality or region of origin. Here (in Barcelona) we want diversity and richness of associations, we want links, contacts, relations between immigrant associations and native associations, as much as possible. And in this way we will have a cohesive system.” (Interview R. Sanahuja, 15-10-2008)

However, to improve the representativeness of immigrant associations and to promote and protect their demands improvements to be made:

“We need more transversality between different departments and sectors. Moreover, I think we should open the immigrant council to other associations, not only to immigrants, but also social actors. We should include and invite the immigrant associations in the different activities of the districts, and make them participate (in these activities).” (Interview R. Sanahuja, 15-10-2008)

In fact, during 2008, the CMIB invited different entities to participate in the elaboration of its Working Plan 2008-2011.<sup>57</sup> This consisted in three meetings where, in a participative and consensual way, the different entities and the City Council deliberated and reached conclusions on three issues: 1) How are we? 2) Where do we want to go? 3) How do we want to get there?

During the first meeting, the 14 entities that decided to participate in the process summarized the positive and negative points of the CMIB as follows:

Positive aspects: a) It is a consolidated consultative body. b) It is a meeting point where entities can influence the City Council’s policies. c) High level of participation. d) There is confidence towards the City Council policy-makers e) the different commissions are committed f) Good level of internal communication between the CMIB and the entities.

Negative aspects: a) Necessity to reform the norms of the CMIB. b) Lack of a fast-track mechanism to channel public opinion to the Council. d) No visibility of the CMIB outside its entities. e) The CMIB lacks of strategy of communication with the social environment. f) Few documents are produced by the CMIB. g) Lack of representation of

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<sup>57</sup> Municipal Council of Immigration: Working Plan 2008-2011 (June 2008) City Council of Barcelona.

many immigrant groups of Barcelona within the CMIB h) Need to reinforce the influence of the CMIB in some policies of the City Council.

They established four objectives for the next four years:

- *To Promote and support Associationism and new ways of participation* by: the reinforcement of the associative network through the formation, and access to municipal resources and services. Promoting the visibility of CMIB entities. and increase the number of immigrant entities in the CMIB.
- *To promote full citizenship without exceptions or exclusions* by: The creation of a consultative group that will participate and collaborate in defining municipal policies. To disseminate the municipal policies on immigration.
- *Internal Function*: To document the work done by the CMIB (to elaborate an annual report). To update the CMIB's webpage. To renew the internal norms of the CMIB. To create an Urgency Opinion Commission.
- *Interculturality*: To promote meeting points between the entities and the people of Barcelona. To elaborate the Municipal Plan of Interculturality

The Working Plan establishes that a detailed evaluation of the work carried out must be completed before 2011.

### **4.3 Comparison between the Councils of Madrid and Barcelona**

After describing the CMIB and FM, we summarize the main differences between them:

*1) Different levels of participation and representativity*: The FM can be considered as a body where the different social actors of the city meet and discuss with immigrant associations issues related to coexistence (such as racism, discrimination, etc.). In this sense, this body does not provide any mechanisms or options for immigrant associations to make and defend their interests and demands. In fact, the full name of the FM itself (Forum of Madrid of Dialogue and Coexistence) reflects the body's priority based not on immigration but dialogue and coexistence. On the other hand, the CMIB is a body that treats any issues related with immigration and promotes not only dialogue and meetings between the different social actors but is also trying to influence and help in the elaboration of immigration policies of the council. In this sense, the CMIB provides mechanisms for immigrant associations to try and promote their interests and demands. Moreover, as we have seen, immigrant associations are also present in the different consultative bodies (The Council for young people, for woman, and of culture) allowing them to participate and have voice in the different of the City Council. It is probably the existence of these different opportunities of participation and the implication of the civil society in the definition of the local policies that contribute to develop a denser and varied associative network in Barcelona (Gonzalez and Morales, 2009).

*2) Promotion of immigrant Associationism*: There is a difference in the efforts and actions of each Council to promote associationism in their city. The Council of Barcelona considers the associationism of its city as an indicator of its richness and tries to promote it as much as possible (large and small). Moreover, one of the main objectives of its 2008-2011 Plan is to reinforce the associative network through the formation, and access to municipal resources and services of the entities. On the other hand, the Council of Madrid has promoted immigrant associationism in an indirect way,

almost without meaning to, when it created the FM (as we have seen the requirement to be register in order to participate promoted the creation or registration of associations in Madrid).

3) *Different Future Perspectives:* As we have seen, the future perspectives for each council are very different. While Madrid is in the middle of a process of approval of their II Plan of Social and Intercultural Coexistence that will establish the future of the FM, the CMIB has already approved a Plan for the Council for Immigration 2008-2011 that as we have seen, pretends to increase the members, objectives, capacities and resources of this Council.

4) *Autonomy of the bodies:* The CMIB is a body with a certain degree of autonomy that prepared its own Plan of objectives for the next four years in a participative way (with the participation of 14 members of the CMIB in its elaboration). On the other hand the FM has not only not yet initiated or elaborated any Plan for the next years but its very existence, shape, status and competencies is dependent on the pending approval of the II Plan.

## 5. Final reflections

The voting rights of immigrants are one of the main ongoing debates related currently with immigration in Spain. This debate is step by step becoming more important not only in the social dimension but also in the parliamentary sphere. The claim for the promotion of this right becomes more present before any kind of elections not only from the immigrant associations but also from other social actors and some leftist political parties. Moreover this claim have become one of the main and most intensively discussed issues in any kind of consultative body related with immigration (local or national) but also have started to be present in the discourse of some political parties.

The debate on voting rights in Spain is basically concentrated at the level of application and it is double edged. The first debate concerns the determination of the territorial level based on the different elections. A Spanish citizen has the right to vote in elections at 4 different levels: European level, national level, regional level (Autonomous Community) and local level. The debate revolves around which level a non-EU immigrant should be able to vote. In relation to the second debate, the focus is on the discussion about which legal criteria (nationality, principle of reciprocity or permanent residence) should be the basic form which to grant voting rights to immigrants.

This is the framework in which the debate on voting rights is built, but there are important factors that make the promotion of this right difficult. The main one is that there is no innovation, no space for it and no resources to make changes because nobody thought about them at the moment of writing the constitution. In this sense, the efforts to promote voting rights of immigrants are bumping into obstacles like the difficulty to change the Constitution, the fear of the main parties to do so, as well as the fact that this issue can negatively affect the electoral interests of the government.

Furthermore, the ethnization of the civil code (or the discrimination by origin in order to get the Spanish nationality) is discriminating immigrants by their origin in the moment of promoting voting rights. In this sense, we can see that there is more a structural ethnization than a social or political one. A reform of the civil code in order to harmonize the access to Spanish nationality without discrimination by nationality, culture, or origin, should be an important step in order to promote voting rights of immigrants.

Even though, at present it seems that the government is taking the first steps to promote immigrant's right to vote, with the approval of a special ambassador that will have the mission to enhance the agreements of reciprocity, as well as the decision to create a subcommission in the Congress of the Deputies which will study the possible constitutional and legal reforms. However, these first steps and decisions can become an important failure if no constitutional reform is made in the middle term. If the constitution is not reformed, the promotion of the reciprocity agreements will not only promote fundamental rights through bilateral agreements but also create important discriminations (to those immigrants coming from countries with which Spain does not or cannot have an agreement), becoming more worrisome if no constitutional reform is made in the middle term avoiding the perpetuation of these inequalities between groups of different origins. This shows that the constitutional reform is crucial in order to promote the voting right of immigrants based on criteria of time of residence and without any kind of exclusions.

Also in this WP, the immigrant associations of Spain have an important consultative body in which they are represented and are able to claim and demand their interests.

Moreover, the FII and all entities represented in this body are making an important work, analyzing and recommending policies (in consensus between them) in order to improve the integration of immigration. However, based on our interviews some changes are necessary because this success will only be relevant if the government takes the FII's recommendations (a body with a consultative function but not a compulsory one).

Finally, even though the local consultative bodies of Madrid and Barcelona are promoting the participation of immigrant associations, it has to be said that there is still a lot of work to do. In Barcelona, the management of immigrant associationism and the objectives established in the Working Plan 2008-2011 of the CMIB shows that the City Council of Barcelona is not only concerned about the promotion of immigrant associationism but also about the improvement of their representativity and capacity of claiming their interests. Meanwhile, the FM is making a big effort to promote the dialogue and coexistence between the immigrant associations and the different public and private actors of the city. However, the objectives of the new Plan Madrid of Social and Intercultural Coexistence seem to show that the FM will stay a space of dialogue between entities. Moreover, it does not contain changes which allow the FM to become a real consultative body where immigrant associations could assert their claims and propose policies to ameliorate their integration and their quality of life.

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- Real Decreto 490/1995, de 7 de abril, por el que se crea el Foro para la Integración social de los Inmigrantes, Boletín Oficial del Estado.
- Real Decreto 367/2001, de 4 de abril por el que se regula la composición, competencias y régimen de funcionamiento del Foro para la Integración Social de los Inmigrantes, Boletín Oficial del Estado.
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## **Press**

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*ABC*: 10/04/2007 “Unos 75.000 rumanos, búlgaros y polacos podrán elegir alcalde el 27-M”

*ABC* 24/05/2007 “Los Inmigrantes sin derecho a voto bodyizarán un simulacro de elección”

*ABC* 27/05/2007 “Los nuevos no serán decisivos”

*El Mundo*: 27/08/2006 “Pastor y Llamazares critican que De la Vega cuestione que ciudadanos no comunitarios puedan votar en 2007”

*El Mundo*: 17/04/2007 “Queremos votar”: SOS Racismo y otras asociaciones lanzan una campaña para que los inmigrantes puedan participar en los comicios municipales”

*El Mundo* 12/05/2007: “Mayol acusa el PSOE de no permitir el voto de los inmigrantes por miedo a la cólera del PP”

*El Mundo* 17/02/2008: “Entidades de apoyo a inmigrantes piden el derecho a voto de los extracomunitarios”

*El Mundo* 05/07/2008: “El PP se atribuye como propia la iniciativa pero prioriza el empleo”

*El Mundo* 04/07/2008: “Una propuesta copiada a IU”

*El Mundo* 05/07/2008: “El voto inmigrante así plateado, se queda en nada”

*El País* 02/05/2007 “7.200 rumanos y 1000 búlgaros podrán votar por primera vez en las municipales”

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*El País* 26/05/2007 “Elecciones 27M – Los inmigrantes que sí cuentan: Más de 21.000 extranjeros procedentes de países de la Unión Europea pueden votar mañana en las municipales y ser elegidos”

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*El País* 20/02/08 “Sindicatos y ONGs reclaman el derecho al voto para los inmigrantes”

*El País* 06/03/2008 “Campaña electoral: UGT reivindica el derecho a voto de los extranjeros residentes en España”

*El País* 08/07/2008: “Mas rechaza el derecho de voto para los inmigrantes que propone el PSOE”

*El País* 31/07/2008: “Un embajador negociará la reciprocidad del voto inmigrante”

*El País* 16/01/2009: “383.000 colombianos y peruanos podrán votar en las próximas elecciones municipales”

*El Periódico* 17/02/2008 “Asociaciones de inmigrantes piden votar en las elecciones”

*La Vanguardia* 14/08/2008: “El Gobierno nombra al embajador que negociará el voto de los inmigrantes”

*La Vanguardia* 29/09/2006 “Los inmigrantes llegados a Canarias en agosto superan en 21 a todos los arribados en el año 2005”

## **Social and Political Documents**

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<http://www.ccoo.cat/aspnet/noticia.aspx?id=102991>

Consenso Social sobre Migraciones (2007) “Documento de bases legales: Área sobre Participación Política y Ciudadanía” <http://www.consensosocial.org/home2.htm>

Campaign of Sos-Racisme IIGUAL1 (1 Equal 1):

[www.sosracisme.org/accions/campanya.php](http://www.sosracisme.org/accions/campanya.php)

Campaign of SOS-Racismo for voting right of immigrants:

<http://www.sosracismomadrid.es/derecho-al-voto.html>

*Report on the situation of the Social Integration of Immigrants and Refugees in 2007-* Forum for the Social Integration of Immigrants, Ministerio de Trabajo y Asuntos Sociales.

*Report on the situation of the Social Integration of Immigrants and Refugees in 2008-* Forum for the Social Integration of Immigrants, Ministerio de Trabajo y Asuntos Sociales.

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Tod@s ciudadan@s): [http://www.acoge.org/descargadocs/manifiesto\\_ingles.doc](http://www.acoge.org/descargadocs/manifiesto_ingles.doc)

Municipal Council of Immigration: Working Plan 2008-2011 (June 2008) City Council of Barcelona.

Resolutions made by the Socialist Party in its last Federal Congress in July 2008:

<http://www.psoe.es/ambito/saladeprensa/docs/index.do?action=View&id=20550>

[7](#)

## Annex. Interview respondents

Interview with	Type of Actor	Date & Place
1. Eliseo Aja	Academic expert in Constitutional Law (Catedrático de Derecho de la Universidad de Barcelona)	03-10-2008 Barcelona
2. Miguel Angel Presno	Academic expert in Public Law ( <i>Profesor Titular de la Universidad de Oviedo</i> )	15-10-2008 by phone
3. Ramon Sanahuja	Policy-maker at the local level, in the Department for Immigration within the Council of Barcelona ( <i>Director del Gabinete Técnico de Inmigración</i> )	15-10-2008 Barcelona
4. Carlos Giménez	Academic expert ( <i>Profesor titular del Departamento de Antropología Social y Pensamiento Filosófico Español de la Universidad Autónoma de Madrid</i> )	03-11-2008 Madrid
5. Jose Antonio Jimenez	Member of the Migration Secretariat of the trade union CCOO (Adjunto de la Secretaria de Migraciones de CCOO)	03-11-2008 Madrid
6. Laura Lopez de Cerain and Amaia Gil	Policy-maker at the local level, in the Department for Immigration and Co-Development within the Council of Madrid ( <i>Directora general de Inmigración y Cooperación al Desarrollo del Área de Gobierno de Familia y Servicios Sociales</i> )	03-11-2008 Madrid (email of 25-11-08)