

STORIES OF STRUCTURAL RACISM

STORY PACK

1. OUAFAE
2. JAWARA
3. CLAUDIA
4. TATIANA
5. MARY
6. CRISTINA

OUAFAE

Ouafae is from Morocco. She arrived in Spain for the first time through a **family reunification** procedure carried out by her husband while living in Spain. She traveled with her 8-year-old daughter. After a year, she and her husband split up and Ouafae and her daughter returned to Morocco. Ouafae returned to Spain on her own a year after, entering with a tourist visa and being welcomed at her sister's house. 6 months later her daughter joined her. At this point, she considered asking for legal recognition of her status as a **single parent family**, but due to her administrative situation it was not possible. Being for most of her life a housewife carrying out the work of taking care of her family, she had never had a waged job before. She finished her primary and secondary schooling in Morocco, but she could not validate it in Spain. She did not speak Catalan or Spanish. When her visa expired, she fell in what is known as an "**irregular administrative situation**". She worked as an live-in caregiver (a caregiver who lives in the house of the person she is caring for) for many years without a contract in different families (she could not be hired until she obtained her work permit) and therefore without paying social security contributions (**employment regime for domestic workers**). Subsequently, she worked caring for dependent persons in some families, sometimes with a contract and sometimes without, but always without the right to unemployment benefits (the regime of contracting in domestic work does not contemplate this). She regularised her administrative situation after getting an offer from one of the families in which she worked for a year of full-time work (**labour settlement regularization process**). She had health problems but needed to continue working under contract in order to make the contribution and be able to **renew her residence card (TIE, Foreigner identity card)**. After a long time, she manages to rent a flat for herself and her daughter. Her daughter, who's studying to be a nurse's aide, does not want her to work as an live-in caregiver anymore - that means not seeing her all day and night. This is hard for both of them because Ouafae needs to work and only finds work as a live-in caregiver. She needs to work in order to survive and renew her documentation and that of her daughter, who also needs to renew her NIE in order to be able to do the internship in the educational module she is studying. Without a renewed NIE, she will not be able to complete her studies.

Family reunification

Temporary residence permit that may be granted to family members of foreigners residing in Spain, by virtue of the right to family reunification. In order to be able to reunite a family member, they must demonstrate a certain income, the availability of "adequate" housing and have resided in Spain for at least one year and have obtained authorization to reside for at least another year. In order to reunite the relatives in the ascending line, the applicant must hold a long-term or EU long-term permit. Residents may apply to a family reunification permit so that the following relatives may join them:

- Spouse or person with whom the applicant has a relationship certified by marriage or civil union.
- Children of the applicant / Children of their partner
- Those legally represented by the applicant.
- First-degree relative of the regrouper who is a long-term or long-term EU resident, when they are dependent on him/her, are over 65 years of age and there are reasons that justify the need to authorise residence in Spain

Single parent family

A single-parent family is understood to be one formed by one or more children under the age of twenty-one, or twenty-six if they are studying, who live with one person and depend economically on that person.

Single-parent families can be made up of:

- A parent and his/her children, who live with other people with whom he/she does not have a marriage bond, nor do they form a stable couple union.
- A widow or widower with dependent children.
- A separated or divorced person who has custody of his or her children and who meets one of the following requirements:
 - Not receiving court-ordered maintenance
 - To receive a pension of less than 50% of the IRSC (Catalan Institute of Sufficiency Income) for each child.
 - In the event that the person has suffered abandonment or male violence, in accordance with the Law on the right of women to eradicate male violence with dependent children.
 - In the event that one parent has a dependent child and the other parent is in prison, hospital or other similar situations for a year or more.
-

The title of single parent family is an official title that accredits the condition of single parent family and provides various benefits and advantages from the institutions, entities and private companies. The

title of single parent family is granted at individual and group level and offers economic aid, housing, discounts and bonuses.

Irregular administrative situation

According to Spanish migration law (Código de Extranjería), those in "irregular administrative situation" find themselves in the country without a stay or residence permit. This situation can be due to several reasons:

- Not having entered "regularly", through authorised border posts and with the necessary documentation (e.g. a visa), depending on the agreements between the person's country of origin and Spain
- Overstaying the period of time that their visa specifies; or, having entered without a visa because they do not need one, having exceeded the three months of stay allowed for tourists.
- Having been in a "regular situation", not having been able to renew their authorization to stay in the country for different reasons.

Being in this administrative situation implies not being recognised as a citizen, not appearing in statistics or having access to public services, and therefore not being able to access basic rights. This situation also makes access to decent housing and medical care difficult. In order to survive, there is no other option than to work illegally and precariously in the underground economy, which implies no labour rights. The institutions do not provide assistance to people in an irregular situation, so they depend on private NGOs. People in an irregular administrative situation may be subject to deportation orders, be detained by the police and be interned in CIEs (Migrant Detention Centers in Spain).

Employment regime for household and care workers

Employment regime governing labour relations in household work in Spain. It involves cooking, cleaning, laundry and care services for dependent persons. It gives the right to pay social security contributions but does not give the right to unemployment. Most of the people employed under this regulation are migrant women who work part-time or sometimes as live-in workers. A live-in worker is a person who sleeps at the same place in which she works, even if she has some free time outside the home. This mode of work implies difficulties in differentiating working hours from rest hours. Some people even sleep in the same room as their carers and, even if against the law, do not have hours and days of rest. There are people who can work in this way in exchange for food and shelter, and some others who, although not registered with the social security system, have salaries well below the minimum wage in Spain.

Labour settlement regularization process (Regularización por arraigo laboral)

The "arraigo laboral" is a temporary residence permit for exceptional circumstances that may be granted to foreign citizens who are in Spain. It involves proving that you have had an employment relationship for a minimum of six months, albeit irregularly (without a work permit since the employer will not have been able to register you with the social security system or pay you on the payroll). One way to obtain employment, although little known, is to report your employer (who has had you working without a contract), although this implies providing evidence to prove it. Requirements: 2-year census and proof of employment of at least 6 months.

Another way to obtain regularization by work roots is by getting a job offer for a year full time (40 hours) and presenting the application for regularization by work roots, a process that takes about six months.

Renew the residence permit card (TIE, Tarjeta de Identidad de Extranjeros)

The residence permit is the permission to stay in a country. It can be temporary or permanent. It can be only for residence or it can be for residence and work.

The TIE card is the Foreigners' Identification Card, containing an identification number (NIE) for non-EU citizens, those who are not part of the European Union. This card is in principle temporary and its renewal is linked to having a job.

JAWARA

Jawara is 30 years old. He left Senegal because the economic situation of the country forced him to do so, to look for better opportunities and to be able to help his family. This fact is linked to the right recognised in the **Universal Declaration of Human Rights**. His only way of reaching Europe was with the support of a group of people who organised to cross the Mediterranean in a dinghy to Spain, as their economic means did not allow them to travel by plane. He finally managed to enter the country, but was arrested and prosecuted as an 'illegal immigrant' and was confined in a **Centre for the Internment of Foreigners (CIE)**. Many people who are detained in these centres are deported. This was not his case, however, as due to having a family member in Spain and thanks to the mediation of migrant rights activist groups, he was able to access a lawyer. This allowed him to prove that he did have the documentation to enter the country. He was finally released and traveled to Barcelona. When he arrived, his life was not at all easy as he was in an **irregular administrative situation**, so no company was willing to hire him to regularise his situation. His only option was working by the hour without a contract, where in many cases he was paid less than he should be and he was not paid overtime (but, nevertheless, he was demanded to comply with all the demands made on him if he wanted to receive his salary). This situation did not give him economic stability to survive, so he decided to look for a way to survive in **unauthorized street selling**. He wants to have a regular job, but in his situation it is practically impossible. In street vending he finds a community of Senegalese colleagues who are in the same situation and who find this form of work a way that seems fairer to him to earn money without being exploited. However, he is constantly exposed to police raids and **racial profiling**, which sometimes involve physical assault and abuse of police power.

Universal Declaration of Human Rights

The Universal Declaration of Human Rights (UDHR) is a document adopted by the General Assembly of the United Nations in its Resolution 217 A (III) on 10 December 1948 in Paris,¹ which contains 30 articles on human rights considered to be basic. Due to the lack of international consensus at that time on the obligation to protect and respect human rights, the document was not formalized as an international treaty, binding on the signatory states, and was limited to a declaration, which was taken as a guiding ideal for humanity. Three decades later, a sufficient international consensus was reached to establish the obligatory nature of the protection of human rights for States, with the entry into force of the International Covenants on Human Rights which, together with their optional protocols and the UDHR, comprise what has been called the International Bill of Human Rights. We highlight Article 13:

Article 13

Everyone has the right to freedom of movement and residence within the territory of the State.

Everyone has the right to leave any country, including his own, and to return to his country.

Centre for the Internment of Foreigners (CIE) - Migrant Detention Centers in Spain

Internment centres are public, non-penitentiary establishments under the Ministry of the Interior, intended for the preventive and precautionary custody of 'aliens' to ensure their expulsion, refoulement or return for the reasons and under the terms provided for in the legislation on aliens, and of aliens whose custodial sentence has been replaced by the measure of expulsion, as decided by the competent judge or court in application of the provisions of article 89.6 of the Criminal Code.

Admission to and stay in the centres shall be for preventive and precautionary purposes only, and shall be designed to ensure the presence of the 'alien' during the conduct of the administrative proceedings and the execution of the measure of expulsion, refoulement or return.

The principle of proportionality in the means used and objectives pursued, the principle of less restrictive intervention and the principle of specialized care for vulnerable persons shall govern, inter alia, the management of the centres.

For these purposes, vulnerable persons shall be understood to mean minors, disabled persons, the elderly, pregnant women, single parents with minor children and persons who have suffered torture, rape or other serious forms of psychological, physical or sexual violence.

There are currently 6 CIEs in Spain (Barcelona, Madrid, Las Palmas, Madrid, Murcia and Tenerife). There are 280 detention centres for migrants throughout the European Union.

Irregular administrative situation

Persons in an "irregular administrative situation" are those who are in the country without a stay or

residence permit, this situation can be due to several reasons:

- Not having entered "regularly" through authorized posts and "with the necessary documentation".
- Having entered regularly, he has complied with the term of stay and therefore his visa has expired; or because having entered without a visa because he does not need one, he has exceeded three months of stay.
- Having been in a regular situation, he has not been able to renew his authorization for different reasons.

Being in this administrative situation implies not being recognised as a citizen. Not appearing in statistics or having access to public services, and therefore not being able to access basic rights. This situation also makes access to decent housing and medical care difficult. In order to survive, there is no other option than to work illegally and precariously in the underground economy, which implies no labour rights. The institutions do not provide assistance to people in an irregular situation, so they depend on private entities. People in an irregular administrative situation may be subject to expulsion files, be detained by the police and be interned in CIEs (Alien Internment Centres).

Non authorised street selling

According to Spanish regulations on public space, non authorised itinerant selling is that type of sale which, being carried out outside a permanent commercial establishment (definition of itinerant or non-sedentary sale), is carried out without complying with state, regional and local regulations for one or multiple reasons.

Source: Ley 7/1996, de 15 de enero, de Ordenación del Comercio Minorista. <https://www.boe.es/buscar/act.php?id=BOE-A-1996-1072>

Racial profiling

Identification by 'racial profiling' or 'ethnic profiling' is a standard criterion in many identifications or checks. People are asked for documentation by selecting them by their physical appearance and linking this to their supposed origin.

Identification by racial profiling:

- Is illegal under Spanish law.
 - Is not an isolated event, but a persistent and generalised practice of identity control by the police.
 - Is discriminatory, as people are not stopped not because of what they do, but because of what they look like and what it is assumed they may have done because of what they look like.
- According to official data from the Ministry of the Interior in 2014, more than 74% of people

identified have not committed any crime.

- Is opaque. There is no published data on the number of identifications made.
- Is criminalising: it normalises police control, recreates a sense of insecurity and links physical characteristics of people outside the norm to crime.

Source: SOS Racisme Catalunya. See <http://www.sosracisme.org/>

CLAUDIA

Claudia has been living in Girona for 3 years. She came to the city as a foreign student to do a two year long master degree linked to social education. Three months after finishing her studies, her **student residence permit** expired. Claudia has a relationship with Paco, who is a European Union citizen. They met during Claudia's internship and by the time Claudia's residence permit expired, they had been together for a year. Paco and Claudia wanted to have a project of a life together, but the only thing that made it impossible for them is that Claudia's residence permit would have expired and she needed to find a way to renew it. A possible option would have been to apply for another postgraduate degree to renew her student status, but this was not possible because of her financial resources. If she was not successful in renewing her residence, she would have had to return to her home country. Finally, Paco and Claudia decided, after the advice of a lawyer, to get married. This way Claudia could have stayed legally in the country by being legally recognised as a relative of her partner, who has European nationality. Although they felt it is a bit rushed for their relationship, within the few possibilities they had this seemed their best option. The procedure required the state to "approve" their relationship through a test to make sure that their relationship was "real", not "fake". Once this was approved and they managed to get married, Claudia had to present all the documentation that certifies that she meets the requirements to apply for her new "EU family" **residence permit**. Within these requirements, Paco and Claudia were particularly concerned with the fact that Paco did not have a job. Due to this, the immigration office asked them to prove that they have at least 10,000 euros in their bank account to show that they had resources to support themselves. On top of that, Claudia had to be affiliated to a private health insurance, despite having the health card, which gives her general access to public health. With the help of her parents they managed to meet these requirements. Finally, Claudia obtained a residence and work permit for 5 years, which is accredited by her partner, who is an EU citizen. This legal link is reflected in Claudia's **residence card (TIE)**.

Student residence permit

Authorization that entitles a person to remain in Spain for a period of more than ninety days in order to carry out or extend their studies in an authorized educational center in Spain, in a full-time program, leading to a degree or certificate of studies.

Residence Card for Relatives of European Union Citizens

The Residence Card for Relatives of European Union (EU) Citizens is a document that grants residence and work rights in Spain under the same conditions as a Spaniard. Any family member of EU citizens, countries part of the European Economic Space Agreement, or Switzerland may apply as long as they do not hold the nationality of those states. This will grant family members with a residence card valid for joining their relatives in Spain or elsewhere for more than three months.

Foreigner identity card (TIE)

The residence permit is the permission to stay in a country. It can be temporary or permanent. It can be only for residence or it can be for residence and work.

The TIE card is the Foreigners' Identification Card, containing an identification number (NIE) for non-EU citizens, those who are not part of the European Union. This card is in principle temporary and its renewal is linked to social security contributions through employment.

TATIANA

Tatiana, a domestic worker, works cleaning in five different homes, but without a contract and therefore without the possibility to contribute to social security (seguridad social, social taxes which grants her also access to social rights), and without access to general health coverage (**Health Card**). So far she only has a health card which is only valid for emergencies. Her health situation is not stable, as she has had injuries in her spine. She should be able to have medical treatment and a follow-up, but her work situation does not allow this. She is not entitled to a paid sick leave, which forces her to work even on days when she cannot bear the pain. As she does not pay contributions to social security, she does not have any kind of work recognition in case of an accident at her workplace. If she were employed (**Employment regime for domestic workers**), she could have access to a banking service, but since this is not the case, she has not been able to have access to renting a flat or contracting basic services for the place where she lives. This makes her dependent on another person who has this documentation and sublets her a space in solidarity.

Health Card

According to CATSALUT (Catalan Public Healthcare System), the Individual Health Card is the document that identifies and allows citizens access to the assigned public health system centres and services. All nationals and foreigners with residence and work permits are entitled to the Catalan Health System (CATSALUT). Foreigners in an irregular administrative situation can also access the public health system in Catalonia after three months of registration in the census (padrón).

Employment regime for domestic workers

Labour regime governing labour relations in domestic work. It involves cooking, cleaning, laundry and care services for dependent persons. It gives the right to contribute to social security but does not give the right to unemployment. Most of the people who are hired under this labour regime are migrant women who work by the hour or sometimes as interns. A person is considered a resident when she lives and sleeps at home, even if some days she does not or if she has hours of rest outside her home. This modality implies difficulties in differentiating working hours from rest hours. Some persons even sleep in the same room as the persons they care for, or do not have hours and days of rest, although this is illegal. There are persons who work in this modality in exchange for shelter and food, and some who, even if this is not the case, are not registered with the social security and have salaries that are much lower than the Minimum Interprofessional Wage.

MARY

Mary decided to travel to Spain to live there with her son several years ago. Her son has been admitted to the General Hospital of a main Spanish city for a severe congenital illness for some years now. The situation in her home country, Venezuela, was becoming increasingly complicated on an economic and social level, which also affected the country's health service. By that time, Mary's son had been operated seven times in Venezuela, and twice in Spain. On the trip to the last of these surgeries in Spain, Mary agreed with the child's other parent that she and the child would stay in Spain, as the situation was generally untenable and the child was receiving better care there. After the child's surgery, the parents began to have some disagreements, to the point that the child's other parent filed a lawsuit against Mary for "illegal retention of a Venezuelan minor in Spain". In addition to the lawsuit, both Mary and her son suffered psychological abuse through multiple threats. The child was interviewed by the judge and, because of how affected he was, he only responded that he was tired of his parents' arguments and wanted to live as he did before. In view of this, the judge interpreted that the child should return to his country of origin. The child was affected by the news that his words had been interpreted in this way, but he could no longer do anything about it. The father won the lawsuit and the child returned to Venezuela with him. Since then, his father prevented any communication between Mary and her child, hiding also his health conditions. Mary is currently unemployed and in an **irregular administrative situation**, which prevents her from being able to hire a lawyer to help her start the process of obtaining custody of her child. She was about to start the procedure to regularize her situation as an **asylum seeker**, but due to the COVID-19 global pandemic, her appointment - for which she had been waiting for eight months - has been cancelled. The police told her that when the "state of emergency" passes, she will have to start the procedure from scratch.

Irregular administrative situation

Persons in an "irregular administrative situation" are those who are in the country without a stay or residence permit, this situation can be due to several reasons:

- Not having entered "regularly" through authorized posts and "with the necessary documentation".
- Having entered regularly, he has complied with the term of stay and therefore his visa has expired; or because having entered without a visa because he does not need one, he has exceeded three months of stay.
- Having been in a regular situation, he has not been able to renew his authorization for different reasons.

Asylum seeker

Spanish Migration Law (Código de Extranjería) defines an asylum seeker as a person who, having made an application for international protection (also called an asylum application), has not received a final response (decision) on his/her case from the Spanish authorities. Until there is a final decision, any process of return, expulsion or extradition that could affect the applicant will be suspended.

A long period of time may elapse from the start of the procedure until a decision is finally issued. Therefore, when a request for international protection is admitted for proceeding, a provisional document is issued as an identification document, commonly known as a "red card" (in reference to the colour of the cardboard on which it is printed). Its official name is the Document certifying the status of the applicant in the process of international protection (Documento acreditativo de la condición de solicitante en tramitación de protección internacional).

CRISTINA

Cristina is a live-in household and care worker. She does not have a contract and is therefore outside the **employment regime for household and care workers**. As she lived most of the time in her workplace, she had no other space to live in. This prevented her from being able to regularise her administrative situation, as she could not have access to the so-called “**census register (padrón) without a fixed address**”. After researching and investigating what other ways she might be able to get her registration, she managed to a room to rent in a shared flat. However, the flat’s leasehold did not allow her to have access to the rental agreement, and she could carry out the procedure and register in that address. Without a census, Cristina could not access her **health card** either, which left her completely undocumented and unprotected in the event of an emergency. It was through the solidarity of the migrant community that Cristina was able to contact the domestic and care workers’ union, which advised her to contact the **social services** so that they could visit her and check that she did have a place to live, despite working as an live-in domestic worker, and thus obtain her census registration. In this process, she decided to send a communication to the Town Hall to address the problems of people like her who need to carry out the census without having a fixed address, and so that other people would not have to face a similar situation in the future. However, she did not get any response to her request, in what is known as **administrative silence**. In a new complaint about this institutional silence, the answer Cristina received was that no home visits are made on Sundays - the only day she specified she could be there because of her work . Several other complaints were made, through a household and care workers’ union, until they finally managed to get social services to pay her a visit on a Sunday. After almost eight months, she managed to get herself registered in the census with retroactive effect.

Employment regime for domestic workers

Labour regime governing labour relations in domestic work. It involves cooking, cleaning, laundry and care services for dependent persons. It gives the right to contribute to social security but does not give the right to unemployment. Most of the people who are hired under this labour regime are migrant women who work by the hour or sometimes as interns. A person is considered a resident when she lives and sleeps at home, even if some days she does not or if she has hours of rest outside her home. This modality implies difficulties in differentiating working hours from rest hours. Some persons even sleep in the same room as the persons they care for, or do not have hours and days of rest, although this is illegal. There are persons who work in this modality in exchange for shelter and food, and some who, even if this is not the case, are not registered with the social security and have salaries that are much lower than the Minimum Interprofessional Wage.

Census / Town hall registration

The municipal census is the administrative register which records the people who reside in a municipality. Their details constitute proof of residence in the municipality and of their usual address there.

Why is it necessary to be registered and what happens if a person does not do so? Without a census, you cannot prove your time of residence in a place. Furthermore, you do not have the right to vote, to a health card, to access public health or social security, to municipal services or, in the case of minors, to attend school there.

Can everyone register in an address wherever and whenever they want? No, if we are neither the owner of the property where we live nor a tenant accredited in a rental contract, we must be authorised by them to be able to register. Therefore, we must either prove this by means of an authorisation document, or the owner or the tenant must accompany us when we register

Who is excluded from the possibility to register in the census? Those who have problems to prove their usual place of rest. Examples may include people who find themselves homeless, but also others who, for example, live in a rented room and the owner does not allow them to register in the property; similarly, those others who do not have access to a network of friends or relatives who allow them to register in their home. These situations lead to illicit business with the census, with people taking advantage of these legal flaws to ask for money in exchange for registering individuals in their home.

Who does the census depend on? Census registration depends on the local town halls of each municipality.

Is a migrant who manages to register on the census able to prove his or her time of residence in the country (a step that will later help to regularise his or her administrative situation)? In order to do so it is crucial that there are not gaps in their presence in the census for more than a certain period. In some instances people find that municipal registers have deleted them from the register without informing

them. For this reason, non-EU foreign citizens who do not have long-term residence in Spain must renew their registration in the municipal census every two years. Otherwise, the Town Hall may cancel their registration.

Is there any alternative proposal to solve these difficulties in the registration procedure? Yes, the so-called padrón without a fixed address. However, at the moment (2020) this procedure is not generalised across the different municipalities of the Spanish State and it depends entirely on the will of each local council to provide such an option.

Individual Health Card (IHC)

The Individual Health Card (IHC) is the document that identifies and allows access to the assigned public health system centres and services.

All nationals and foreigners with residence and work permits are entitled to the Catalan Health System (CATSALUT). Foreigners in an irregular administrative situation can also access the public health system in Catalonia after three months of registration. All persons, regardless of their legal situation and census registration, have the right: a) to be attended to in the emergency room, at the expense of the Catalan Institute of Health, due to illness or serious accident until medical discharge. b) pregnant women, including childbirth and postpartum, until medical discharge. c) minors in the same conditions as Spanish persons.

Social services

According to the Catalan Ministry of Employment, Social Affairs and Families, social services are the set of services and actions aimed at improving the social welfare of citizens through the provision of information, care and support to vulnerable people and groups. These services represent an accompaniment to personal, family or social situations that require support, through an assessment of the situation and the definition of a work plan, and also serve as guidance on the resources, benefits and services that are most appropriate to the specific needs of citizens.