

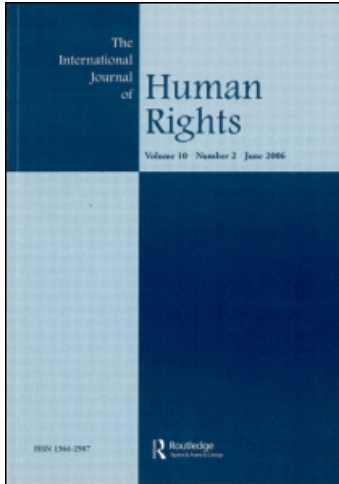
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### Human rights and cities: the Barcelona Office for Non-Discrimination and its work for migrants

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## Human rights and cities: the Barcelona Office for Non-Discrimination and its work for migrants

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This contribution addresses human rights in the city of Barcelona, analysing the treatment and outcome of migration-related complaints to the Office for Non-Discrimination (OND), a municipal service in Barcelona. The city provides both the level and the unit of analysis of the complaints to the OND. The OND has dealt with a variety of migration-related legal issues by using the human rights framework flexibly and providing different types of solutions in relation to two main constraints: the status of the migrants and the systemic and hidden nature of discrimination affecting them. The contribution suggests ways beyond those provided for by the law in which cities can support (migrant) human rights through an institution like the OND.

**Keywords:** human rights; cities; citizenship; discrimination; migration; local government

### Introduction

Multiple relationships exist between cities, migration and human rights. At their intersection, issues of equality and discrimination can be found. Migrants concentrate in or around cities, in particular because they offer higher chances of employment. At the same time, in these urban contexts migrants may experience exclusion and segregation. Relatively recently, some local governments have begun to formulate human rights discourses and policies based on centralised agencies and/or diffused mainstreaming processes, and to use them in support of migrants and other groups. In 2000 the 'Coalition of Cities for Human Rights' launched the European Charter for the Safeguarding of Human Rights in the City (ECHRC).<sup>1</sup> Furthermore, UNESCO has established networks of cities in different regions of the world with the objective of fighting racism.<sup>2</sup> Human rights initiatives are proliferating also in US cities and have become part of a wider, bottom-up effort to 'bring human rights home'.<sup>3</sup> At least at a purely discursive level, human rights are more inclusive than concepts of 'urban citizenship', which may raise concerns about the selective dynamics of 'citizenship'.<sup>4</sup> Overall, when they are not a mere political brand, the use of human rights by cities can be seen as an effort to frame urban diversity positively, to respond to its challenges and to re-think and re-organise new and traditional types of social policies and institutions in the perspective of connecting the local to the global.<sup>5</sup>

This contribution looks at one of these human rights cities, Barcelona, and the work of its *Oficina per la No Discriminació* (Office for Non-Discrimination OND). The OND is a local agency and service established in 1998 within the *Regidoria de Drets Civils* (City

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Department for Civil Rights; RDC).<sup>6</sup> It has a mandate to protect human rights at the local level with an emphasis on non-discrimination. Among its legal references there are international, EU and Spanish human rights-related norms, and the ECHRC. The OND pursues its mission by processing individual complaints in a similar way to that in which other international, state and local agencies already act.<sup>7</sup> Complaints can be filed by individuals or non-governmental organisations (NGOs), and are collected through different channels. The OND provides complainants with either some extra-judicial form of intervention (usually mediation) or legal support to take cases to court or to the police; as a rule, complainants are free to opt for either of the procedures. As part of complaint processing, the OND offers psychological support to victims of discrimination and it can also address complainants to other city services whenever it deems that appropriate. In addition to processing complaints, the OND provides training in human rights and, occasionally, reports on specific issues. As of February 2010, its staff comprised four *tecnicos* ('technicians', who are responsible for handling complaints), one psychologist and three lawyers (one of whom is expert on migration issues) from the local *Col·legi d'Advocats de Barcelona* (Barcelona Lawyers Association).<sup>8</sup>

In particular, this contribution investigates the way in which the OND treats 'migration-related complaints' – complaints raising issues of migrant (human) rights and race discrimination (a form of discrimination which, in a country of new immigration such as Spain, affect almost exclusively migrants). This investigation will not be a purely legal analysis of cases and city competences related to human rights<sup>9</sup>: I am interested in positioning it within the expanding research area of a sociology *for*<sup>10</sup> human rights. In line with Woodiwiss, I will consider (human) rights not as universal abstract norms but as social facts: 'a subset of a larger set of social relations that produce and enforce behavioural expectations, a subset distinguished by their legal form and their focus on the prevention of the abuse of power'.<sup>11</sup> Social facts are produced by social processes, and it is in this perspective that I will view the work of the OND. I will consider the OND as a local actor and institution committed to human rights but nevertheless constrained in this mission by different structural and contingent legal, political and socio-economic factors. The analysis of complaints to the OND aims to test the implementation of human rights in practice and as a practice of the OND. Of course, as the OND has no law enforcement powers we can expect that its scope for achieving results might be limited. At the same time, I am interested in exploring how the OND deals with these issues and its human rights potential in the broadest possible sense. The investigation relies on statistics on complaints handled by the OND between 1999 and 2008, a sample of 21 reports of migration-related complaints selected by the OND which date back to the years 1999, 2000 and 2001, and in-depth interviews conducted in Barcelona between 2004 and 2010 with people connected to the OND.<sup>12</sup>

Starting from these premises, I will first define the theoretical and analytical frameworks of this contribution by identifying the city (of Barcelona) both as a 'level' and a 'unit' of analysis. I distinguish between these two inter-connected dimensions in the following sense. The city as a level considers the city as one level at which migrant human rights can be implemented. This is explored in relation to the way in which supra-local levels of definition and implementation of these rights may affect the OND's work. The city as a unit considers the internal economic, social and political environment in which the OND acts. Secondly, I will provide data on OND migration-related complaints and elaborate on how the OND approaches and categorises them using the human rights framework. It will be shown that the OND uses a flexible bottom-up approach when defining its cases which, while in line with its service nature and sometimes uncertain from a legal view point, is also more inclusive and has a potential for expanding human rights. Thirdly, I

will consider jointly the treatment and the outcome of complaints by looking at the strategies pursued by the OND, the resources it mobilises and the kinds of solutions it offers to the migrants involved. In fact, my research shows that treatment and outcomes are intertwined issues and that the OND will intervene directly mostly when intervention has a higher chance of success. Fourthly, I will generalise on the relationships between cities and human rights as a result of this research. Fifthly, I will draw my conclusions.

### Moving human rights to the city and the implications for migrants

The city is a relatively new level on which to view human rights. To begin with, the city, and with it the OND, receives (migrant) human rights as defined by the international regime but filtered by intermediate institutions. As we move from the international to the state level, the legal criteria for defining migrant rights become increasingly restrictive, especially concerning the documented–undocumented condition of the migrant. If human rights were truly universal, this difference would not exist; in practice, international human rights institutions acknowledge but question it. The European Court of Human Rights (ECtHR) has developed a space of protection for long-term residents, which in some cases includes the right to regularise an illegal stay in a country.<sup>13</sup> The EU has been less permissive; in providing the overarching legal framework for migrant rights within its own competences, it has largely stuck to the principle that a regular resident from a member state is entitled to most traditional citizenship rights. Both the Race Equality Directive (RED) and the directive on family reunification go in this direction. The RED bans racial and ethnic origin discrimination in fields such as employment, housing, education and access to goods and services but does not prevent states from discriminating against non-EU citizens on the basis of nationality.

At the state level, human rights are filtered through citizenship rights, and migrant rights through (im)migration policies (including laws). These policies are influenced not only by legal requirements but also (and eventually more) by idiosyncratic national approaches and converging political concerns for control and for the economic and political sustainability of flows.<sup>14</sup> The combination of these factors has produced a stratification and proliferation of migration statuses at the different intersections between human and citizenship rights.<sup>15</sup> Nash distinguishes between different statuses, moving from ‘super-’ and ‘marginal’ citizens (who enjoy full legal citizenship status), through ‘quasi-citizens’ or ‘denizens’ (long-term employed and documented residents) down to ‘sub-’ and ‘un-’ citizens (the former includes people claiming the status of asylum seekers, while the latter comprises undocumented migrants). As we move from one status to another, and in particular from the denizens to the sub-/un-citizens, we find that the question of ‘what rights go to whom’ is being constantly redefined.

In Spain, the rights and duties of migrants in different *situaciones administrativas* (administrative situations) are defined by the state *Ley de Extranjería*<sup>16</sup> (Law on Foreigners). The first *Ley de Extranjería* was passed in 1985. The second law was approved in 2000 and has since been amended and integrated several times in a context where the regulation of migration, and in particular the control of borders and flows, has become increasingly politicised.<sup>17</sup> The first amendment was passed in 2000 by the newly elected Aznar government, whose approach to law-and-order penalised undocumented migrants. The Zapatero government adopted a more open and pragmatic approach; in 2005, for example, it launched a process of ‘normalisation’ that created a labour *arraigo* in addition to the traditional social *arraigo*. The certificate of *arraigo* (a word that could be translated into ‘settlement’ or ‘integration’) allows migrants to stay and work in the country after having been employed in the informal economy for two years (labour *arraigo*) or having lived there for three years and become socially integrated (social *arraigo*).<sup>18</sup>

Within the decentralised structure of the Spanish state, local governments have played an increasingly important role in the management of migration (including the state migration policy) and the integration of migrants,<sup>19</sup> with crucial repercussions on migrant (human) rights. A division of labour has been established whereby the state remains in charge of border control while the autonomous communities and local authorities focus on integration (although in this respect, it has been argued that local authorities lack competence and resources to implement adequate policies).<sup>20</sup> Local authorities are responsible for the registration (*empadronamiento*) of all city residents independently of their migration status. This *empadronamiento* gives migrants access to basic services and 'counts' if one applies for the *arraigo*. Municipalities also prepare *informes* (reports) on the housing conditions of applicants for family reunion and *informes* testifying the social integration of applicants for the social *arraigo*. While the sub-delegation of the government has the final word on these applications, it is clear that local governments can influence the process. Because of this, city responsibilities related to the management of state migration can become the object of legal and political conflicts at any time. Recently, one such debate concerned the existence of what are commonly called *pisos patera* (apartments where a large number of migrants are registered as residents) and exploded when two local governments refused to register undocumented migrants. A highly mediated debate on *empadronamiento* and the need for the state to better define local government obligations in this area then followed.<sup>21</sup>

Having defined the city as a level, I now move on to identify it as a unit of analysis: a space for living, production and consumption within which the realisation of human rights may be very problematic. Urban sociologists have explored the way in which, in current times of globalisation and economic restructuring, powerful private economic interests and actors, from global to smaller and medium-size ones, shape the city. Considered in the light of these interests, the position of migrants may be very weak, and counter-balanced only by the support received from their own communities. While still far from experiencing the dramatic forms of exclusion and segregation of many minorities in US cities, migrants can easily find themselves at the margins of European cities. They tend to be confined in low-skill and low-wage (often informal) sectors of the local economy.<sup>22</sup> Poor income can be one of the factors that forces migrants to concentrate in the rental market and the less prestigious segment of the city's housing stock, especially when they have no access to public social housing. These economic factors, however, are not the only determinants of social exclusion and/or spatial segregation. Discrimination can also account for that: as van Kempen stresses in relation to housing, 'Discriminatory practices can be encountered among private landlords as well as among the intermediaries between landlords and prospective buyers or tenants.'<sup>23</sup> As different actors concur – each driven by his or her belief, convenience and/or profit logic – to keep certain groups out of, or at the margins of, the market, patterns of systemic discrimination can emerge in cities.

Local governments intervene in these problems through universal or ad hoc social policy, including human rights. However, to the extent that they 'redistribute', these social policies can clash with local policies of development. The tension between redistribution and growth has been related to emergence of the neo-liberal ideology and ongoing processes of globalisation and upward and downward state re-articulation. As a result of these processes, European cities and their mayors (whether because they have to, or because they think they have to) have become more entrepreneurial: they strive to maintain their local economic and tax bases and, through this, to finance local social policy.<sup>24</sup> Of course, tensions between the economic and social agendas generate conflicts inside the local government (eventually between parties) and in civil society (as NGOs and urban

social movements mobilise around issues of collective consumption or in support of specific vulnerable groups). To minimise conflict, municipalities have incorporated issues of growth and redistribution into wider ‘governance’ initiatives that emphasise participation in decision-making by all stakeholders.<sup>25</sup> The extent to which local governance fosters true participation and therefore leads to balanced combinations between growth and redistribution remains to be seen in each single instance.

Within this picture, the position of Barcelona – the capital of Catalonia and one of the richest cities of Spain, with a population of about 1.5 million people – is ambiguous. Especially since the 1992 Olympic Games the local government has promoted strategic planning and tourism as ways of transiting from an industrial to a service economy.<sup>26</sup> The economic prosperity of the city has attracted both internal (Spanish) and external immigration since the 1960s.<sup>27</sup> However, it is the latest wave that started in the mid-1980s that has produced the widest ethnic and racial differentiation in the city. Between March 1996 and January 2009, the overall foreign population registered in Barcelona jumped from 29,354 (1.9 per cent of the city’s population) to 294,918 (18.1 per cent), although this is partly composed of Europeans (9407 in 1996 and 90,388 in 2009).<sup>28</sup> If we look at the areas of origin and nationality of these migrants the situation appears very fluid. As of January 2009, there were 105,381 Southern Americans and 20,629 Central Americans; the Latin American area dominates, probably because of its privileged linguistic and diplomatic relations with Spain. There were 76,022 European citizens, 40,947 Central Asians and 21,665 Africans. The most numerous national group was, in fact, that of Italians (22,684, although many are actually Argentineans with Italian nationality) followed by Ecuadorians (22,210), Pakistanis (17,735), Bolivians (17,672), Peruvians (15,613), Moroccans (14,402), and Chinese (14,402). These figures had previously been rather different: for example in January 2005 Bolivians were by far the most numerous group (31,828).<sup>29</sup>

With respect to employment, data on social security integrated with statistics on undocumented migrants show a high concentration of migrants in the city and its surroundings. Data on social security integrated with statistics on undocumented migrants show a high concentration in the construction sector and, within it, a high presence of undocumented migrants working in irregular conditions.<sup>30</sup> With respect to residential conditions, the dissimilarity index<sup>31</sup> (calculated using data from the *empadronamiento*) shows an overall decreasing segregation of broad foreign geographical communities and national groups between 2001 and 2005, although there are differences between communities and nationalities in both absolute numbers and trends. The community from ‘Africa outside the Maghreb’ is the most segregated. Filipinos and Pakistanis are the individual nationalities most segregated. Latin-Americans – both as an aggregated community and by nationality – are the least segregated,<sup>32</sup> arguably because of their linguistic affiliation and traditional presence in the city.

The local government has reacted to the presence of migrants with different approaches and debatable outcomes. The historical leftist orientation of the municipality contributes to explaining the existence of the city’s local human rights policy. Over the years, within governing coalitions led by the Socialists, the RDC has been in the hands of parties with a more or less radical leftist/nationalist orientation, such as *Esquerra Republicana de Catalunya* (Republican Left of Catalonia; ERC). As part of its inclusive approach (and arguably also to keep a realistic track of how many migrants are based in the city), the local administration issues a virtual certificate of *empadronamiento* to migrants who have no stable residence in the city. Migrants have access to local social services managed by NGOs and their interests are supposed to be represented in the city’s advisory *consell* (council) on migrants. At the same time, some authors have shown a limited direct participation of

migrants and their organisations in these policies, as opposed to co-opted NGOs monopolised by native activists.<sup>33</sup> A law-and-order agenda has also emerged with the approval of the *Ordenanza de Civismo* (Ordinance on Good Citizenship) in 2005, with important repercussions on migrants and the RDC's overall capacity to push the human rights agenda within the local government. In particular, a conflict emerged between the RDC (which at the time was named City Department for Women and Civil Rights) and the mayor, concerning the criminalisation of sex workers in the Ordinance. ERC voted the Ordinance in exchange for measures supporting women who wanted to quit sex work.<sup>34</sup>

### OND migration-related cases: approaching and categorising complaints

Considering the total workload of the OND, migration-related complaints have been quite numerous. Overall, the office has dealt with an increasing number of cases per year, moving from 225 in 1999<sup>35</sup> to 740 in 2008. Between 1998 and 2006, an average of 41 per cent of the cases handled by the OND each year regarded migrants (followed by disability-related issues at 14 per cent).<sup>36</sup> In 2007 and 2008 these cases amounted to 35.58 per cent and 42.76 per cent respectively. It is clear that, despite sometimes substantial variations, migration-related complaints account for a sizeable proportion of the OND's increasing workload, and that this workload increased during the years in which the migrant population of the city increased.

Table 1 presents data on migration-related complaints received by the OND between 2003 and 2008, broken down by the 'allegedly violated right(s)'.

Table 2 provides the same information, but only in relation to a sample of 21 migration-related cases reported by the OND which have been selected for this analysis.

The final table breaks down the 21 sample cases by nationality.

The first comment to make on these tables concerns the discrepancy in terms of years and legal issues between the data reported in Table 1 and Tables 2–3. Note that the figures from Table 1 cover the years 2003–2008 and are more recent than those in Tables 2–3,

Table 1. OND migration-related complaints (as % of all migration-related complaints) by allegedly violated right(s) per year (2003–2008).

Right(s)	2003	2004	2005	2006	2007	2008
Dignity	17.9	25	21.84	32.2	25.68	16.92
Labour	24.7	13.8	17.24	13.56	16.22	20.77
Information	12.3	10	16.09	22.03	8.11	9.23
Family	12.3	15	12.64	10.17	5.40	2.31
Admission	11	7.5	11.50	10.17	13.52	6.92
Housing		11.3	10.34	5.08	14.87	7.69
Language			2.30			
Education/training			2.30		5.4	3.85
Health			2.30	1.69	2.7	9.23
Intimacy			1.15			
Spanish nationality			1.15			
Freedom/security			1.15	2.3	2.7	2.31
Socio-economic benefits				1.69		1.54
Confidentiality of data						0.77
Other	21.8	17.4		1.69	5.40	18.46
Total	100	100	100	100.58*	100	100

Source: OND.

Notes: \*This number is reported by the OND.

Table 2. OND: sample of 21 migration-related cases by violated right(s) (1999–2001).

Right(s)	No. of complaints
Admission	6
Family	6
Housing	5
Dignity	1
Socio-economic benefits	1
Image	1
Spanish nationality	1
Total	21

Source: OND.

which concern cases dealt with by the OND during its first three years of activity. Consider also that some of the rights that rank high in Table 1 are either strongly under-represented ('dignity') or completely absent ('labour') in the sample cases reported in Tables 2–3. At the same time, some marginal cases in Table 1 ('image' and 'Spanish nationality') are relatively over-represented in Tables 2–3. This discrepancy, however, has been corrected by interviews, which looked at OND complaints and related issues up to 2010 and allowed me to obtain a more realistic view of the work of the OND over the years and across issues.

Secondly, attention should be paid to the variety of nationalities of the people involved in the sample cases reported by the OND. Overall, Table 3 shows that the agency intersects possible cases of human rights violations affecting members of various communities now established in Barcelona: not only Latin American people but also Moroccans, Pakistanis and Eastern Europeans. The OND staff confirmed that these are the communities/nationalities most involved in OND complaints. This does not necessarily mean that they are the most discriminated against as, according to the OND, there are groups like the '*gitanos*'<sup>37</sup> (literally: 'gypsies'<sup>38</sup>) which are objects of all kinds of discrimination, are ignored by the administration and do not bring cases. This problem is also experienced with other communities, including from Africa: for the OND this has to do with a lack of capacity to claim anything, so that NGOs often channel cases to the OND on their behalf. The OND thinks that education is a solution, and has occasionally trained '*orientadores de derecho*'<sup>39</sup> (legal orientators) to reach out, for example, to sex workers

Table 3. OND: nationality and gender of migrants involved in the sample of 21 migration-related cases (1999–2001).

Nationality	Men	Women	Not Specified	Total
Moroccans	5	2		7
Ex USSR	3			3
Argentinean		2	1	3
South America		2		2
Colombian			1	1
Peruvian	1			1
Cuban		1		1
Egyptian	1			1
Nigerian			1	1
Pakistani	1			1
Total	11	7	3	21

Source: OND.

(this arguably took place after the RDC negotiated the inclusion of the policy in support of sex workers in the *Ordenanza de Civismo*). However, it also stated that it would need more resources to invest systematically in training.

Thirdly, one should notice the variety of legal issues raised by the OND migration-related complaints. Complaints either concern issues of human rights or pure discrimination: some are quite recurrent (dignity, labour, information, family, admission and housing), while others arise randomly (image, Spanish nationality, and confidentiality of data). In addition, one can notice some substantial variations between complaints falling within the same category from one year to another. These variations can be explained by reference to the OND's open, bottom-up approach to the collection of complaints. In principle, as a city service committed to the treatment of all kinds of cases, the OND is free to include whatever issues it sees fit into the reach of its activities. Within this approach, technicians classify cases according to their own perception of the core issue of a complaint, which in turn is influenced by the complainant's narrative.<sup>40</sup> As such, it becomes clear that similar cases can be labelled differently by different technicians, and new categories are constantly being created. Of course, this carries the risk for the OND of being confronted with cases that have no (legal) relevance when considered in relation to its human rights mandate. Yet, this risk seems limited by the work of the OND lawyers, who ensure that complaints are treated within the proper framework if necessary. Moreover, if a person raises an issue which is completely outside the OND's mandate, the office can 'accompany'<sup>41</sup> this person to other city services (such as the SAIER or BARCELONACTIVA, the job and training agency of the city) as it has already done on various occasions. On some cases, the OND also collaborates with the *Síndic de Greuges de Barcelona* (the city's ombudsperson).

Starting from these premises, however, it is important to clarify the way in which the OND actually interprets some categories of rights, especially in relation to migrant rights. I begin with 'dignity', itself a vague concept in the human rights discourse. The OND does not seem to have a precise definition of what a violation of the right to dignity is: in fact, 'dignity' is a box which the OND fills with cases that do not raise a clear-cut legal issue or that may belong to more specific areas of human rights and discrimination. One type of dignity case is clearly physical and verbal violence and harassment, which in Europe is increasingly considered a violation of the right to dignity.<sup>42</sup> Most complaints involving migrants are actually cases of insults. Cases of the same type are also categorised as 'freedom/security' when they specifically involve the police *and* there is evidence that supports the case.<sup>43</sup> I will return to this issue in the next section.

Another right that needs to be clarified is the right to information. The OND considers lack of transparency or correct communication between the public administration and its users a violation of the right to information.<sup>44</sup> This interpretation of the right to information is quite in line with laws passed in many states, and the ECHRC.<sup>45</sup> With respect to migrant rights, the OND considers different types of cases violations of the right to information, including all the dysfunctions generated by the state *Oficina de Extranjeros* (Office for Foreigners, Ode), which receives applications for the regularisation of migrants. However, as of February 2010 no legislation providing for the right to information from the public administration had been enacted in Spain. In order to push for the approval of such legislation and be able to monitor public authorities (also in relation to migration) a number of NGOs have established the coalition *Pro Acceso* ('For Access').<sup>46</sup>

With respect to other rights, the categorisation of (migration-related) cases is done in line with a more common and traditional understanding of the categories employed. In the area of civil rights, 'admission' cases relate to public accommodation discrimination.

'Family' rights comprise family reunion and custody rights cases. 'Intimacy' concerns any intrusion into one's sexual life: one case involved a transsexual migrant harassed by the *guardia urbana* (the local police). The case on the right to 'image' stemmed from a complaint related to racist advertising. Concerning Spanish citizenship, the case reported by the OND involved a Moroccan woman who, despite having spent ten years in the country, was not given citizenship because she could not demonstrate that she was in Spain in a specific time span of two months. In the area of social and economic rights, 'housing' cases concern discrimination in the private market. 'Labour' cases comprise discrimination in employment, including in relation to salary. The right to socio-economic services regards social security benefits tied to pensions, health insurance and unemployment.<sup>47</sup>

### The treatment and outcome of complaints

This section analyses the way in which the OND processes complaints and their outcome. It is divided into three parts. In the first part I discuss cases of aggression and harassment (whether by a private or public actor, including the police) and raise more clear-cut criminal law issues. In the other two parts I deal with cases filed against public authorities and private agents. Broadly speaking, these cases raise, respectively, human rights and pure discrimination issues. In these two groups of cases, the status of the migrant and the complex and systemic nature of discrimination appear to be determinant of the outcome of the OND's intervention. Complaints of these latter two types are equally distributed: between 1998 and 2006 complaints filed against public administration of whatever level made up 49 per cent of the total; of the 51 per cent filed against private actors, 16 per cent were against individuals, and 35 per cent private entities such as companies<sup>48</sup> (which lets us know that the OND deals a lot with locally-based business activities).

As a premise to the analysis of specific cases, however, it is useful to discuss the general relationship that emerges from my research between the treatment and outcome of the cases and, in this respect, the array of different and evolving practices of the OND. First, notwithstanding the complainant's freedom to opt between mediation and legal support, in most cases it appears that the OND provides mediation or advises reporting the case according to what the OND thinks is best for the complainant in the light of the agency's accumulated experience of dealing with different cases. Secondly, the OND may try to make some kind of direct intervention with the respondent even when the complainant opts for reporting the case (but always with the complainant's consent). It is especially in this respect that the OND director talks of *gestión alternativa de conflictos* (alternative conflict management) whereby the OND may try to directly negotiate some sort of satisfactory solution with the respondent after which the case can be closed. Thirdly, among the agencies to which the OND diverts cases there is now the Catalan *Fiscal coordinador del Servicio de Delitos de Odio y Discriminación* (a public prosecutor coordinating investigations on hatred and discrimination crimes; hereinafter: FDOD). This cooperation is fruitful for both the OND and the FDOD: for the OND, the Fiscal is a sort of law enforcement prosthesis, while for the FDOD the OND is a source of information and an alternative source of cases complementing those received from the police.<sup>49</sup>

Overall, we discover that in eight years 76 per cent of complaints were objects of mediation or negotiation/conciliation, 14 per cent were diverted to other services or agents and only 10 per cent ended up being reported to the police.<sup>50</sup> These data reflect the OND opinion that going to court is in most cases not a good solution for the complainant: partly because of the long time it takes to get a sentence but also because many complainants have no evidence in their support, may not know how to handle the process well

and may involuntarily act or say things against their own interest when they are in front of the judge. These are issues which the OND knows well and has had much experience of during its years of activity (for example, the case of a Brazilian woman attacked with a bottle and insulted, which took seven years before the judge delivered a sentence).<sup>51</sup> At the same time, the importance of the law for the OND also emerges, as the OND lawyers have offered legal advice both to the technicians (*asesorament jurídic*) and directly to the complainants (*atenció jurídica*) in an overall increasing number of complaints over the years (up to, respectively, 348 and 129 cases in 2006).<sup>52</sup>

### ***Cases of aggression and the ambiguous role of the police***

Physical and verbal aggression and harassment may have criminal law relevance: Article 173 of the Spanish Criminal Code protects the integrity of the person, and Article 22.4 provides for aggravating circumstances if a discriminatory motivation is present. Theory says that all these cases should be reported to and properly investigated by the police. The practice of the OND, however, is more pragmatic: nowadays, the agency systematically advises complainants to report cases of physical aggression while usually proposing alternative solutions for cases where physical violence is not involved, especially if there is limited or no evidence in support of the complaint.<sup>53</sup> In fact, the two cases in the OND sample which involved physical violence or an element of physical constraint both went to court following counselling from the OND: a dignity case of the arrest and ‘detention’ of a Moroccan man by two metro security guards and an admission case of two South-American women beaten by club doormen. In the latter, the police were able to identify three assailants of the women but at the time that the OND report was made (2000) a sentence had not yet been passed. The previously mentioned case of the Brazilian woman who had been attacked with a bottle reported to me during an interview is another example of this pattern of complaint leading to police report.

Instead of advising complainants to go to the police, in many cases of verbal aggression and similar forms of discrimination, the OND proposes intervening itself. Here, we can see a complementarity between complaint processing and other forms of intervention that aim to have an impact on quality, wider than that of any single case. If the respondent has a business, the OND suggests doing some *formación* (training) and this offer, coming from a public body and being free, is usually accepted. The OND also proposes *taller de cambio de actitud* (literally ‘workshop to change attitude’) to businesses and organisations which are known to discriminate but which are the object of no complaint, threatening them with potential consequences from the local administration if they do not accept. In all cases, the intervention is not closed until the respondent gets back to the OND, in order keep up pressure.<sup>54</sup> Interventions of this type have been made with metropolitan transport workers (ticket inspectors, security guards) and workers in other places open to the public (I will return to this when dealing with discrimination by private agents).

A specific sub-set of aggression cases deserves separate consideration: those involving the police, and in particular, the Catalan *Mossos d'Esquadra* or the local *guardia urbana* (the state police is now mostly involved in border control operations outside the city). This type of incident mostly regards complaints filed against the public administration<sup>55</sup> and it introduces an element of tension into the relationship between the OND and the police (and, eventually, the local administration within which the OND is located). The police moves from playing an active role in the resolution of the OND's complaints (as in the examples provided in the previous paragraph and others that will be presented in the following sections) to being the respondent of the complaint. As cases go to court,

however, conflicts between the OND on the one hand, and the police and/or other sectors of the local government on the other, are somehow solved through the intervention of a third party, the judge. In fact, when an OND case goes to court, the police respond by bringing a case against the OND's complainant. The story commonly ends with the police winning the case because its word carries more weight than that of the counterpart.<sup>56</sup>

In this and other respects, the appointment of the FDOD could lead to some change. The first and current FDOD, Miguel Angel Aguilar, is establishing different forms of collaboration with the *Mossos* which should raise awareness of the criminal law aspects of any incidents involving vulnerable groups and minorities and arguably modify *Mossos* attitudes towards migrants. A protocol which recently came into force should improve data collection related to hatred and discrimination crimes and the use of the relevant provisions of the criminal code by the police.<sup>57</sup> There are many questions on the table: the police's lack of knowledge of these provisions (and also that of many professionals involved in cases, including lawyers), which requires more training; and also inter-governmental relations and ideology: the FDOD openly stated that it is easier for him to connect with the *Mossos* because they operate at the same level of government. At the same time, he acknowledged that the *Mossos* are usually very responsive to the political orientation of the *Generalitat* (the Catalan government, which since 2003 has been led by a centre-left coalition).<sup>58</sup>

### ***Dealing with public authorities: human rights and questions of status***

Whenever a complaint concerns a human rights issue and is filed against a public authority, the documented/undocumented status of the migrant seems to determine the outcome of the OND intervention. Therefore, not surprisingly, the OND achieves better results for denizens than for un-citizens. Family rights cases, for example, usually meet with a fair degree of success. Many such cases concern documented migrants who want to reunite with their family and have a formal right to family reunion (*reagrupación familiar*) as provided by Articles 16–19 of the *Ley de Extranjería*. To solve these cases, the OND directly contacts Spanish embassies or consulates that can issue visas for the complainant's family members.<sup>59</sup> Through this approach, the OND intervened also in cases of people from Ghana, where the Spanish consulate requested visa applicants for a DNA test.<sup>60</sup> In the Spanish nationality case too, the OND contacted the relevant authorities to obtain citizenship for a legally resident Moroccan woman, contributing to raising her status from denizen to citizen. In family rights cases, however, nationality can also be a meaningful variable: most of the successful reported OND interventions, including one of custody rights, concern people from Latin American countries, with which Spain has privileged relations.

Success in this area, however, should not be taken for granted, especially when requirements related to family reunion appear not to be satisfied (or are more strictly respected). The OND did not manage to achieve family reunion for a group of Pakistanis who had complained about irregularities in the visa procedures applied by the Spanish consulate in Pakistan 'owing to the personal and employment situation of the Pakistani workers'. Recently the OND has also been confronted with unsuccessful family reunion applications because the applicants did not meet the housing requirements set by the municipality (of Barcelona). Accordingly, the municipality delivered negative *informes* on the housing conditions of these applicants, which were then transmitted to the sub-delegation of government for consideration jointly with the rest of the family reunion applications of the OND complainants. The OND asked the sub-delegation of government for clarification of the individual cases and the sub-delegation always replied confirming its rejection.<sup>61</sup>

Things become even more complicated for the OND when the migrant involved in a case of discrimination by a public authority is undocumented. The ‘socio-economic services’ case reported by the OND provides evidence of this. The complaint was filed by an ex-USSR citizen (via an ONG) who had worked three years while in prison and once out of prison was refused unemployment benefits because of his irregular status. The OND held that the man had been a victim of ‘administrative discrimination’ compared to a Spanish person in a similar situation. Administrative discrimination here is a proxy for discrimination on the ground of nationality, a claim that could hardly be successful considering the undocumented status of the complainant.

The treatment of complaints related to the right to information provides further evidence of the OND’s limited capacity to intervene when issues of status are central. As mentioned, many of these complaints regard the Ode and, we can guess, concern either documented or undocumented migrants whose status is under review. Migrants complain about very typical situations: of the Ode’s limited opening hours and the intimidating presence of the police. The administration also often fails to inform the complainant of her/his right to a lawyer *ex officio*.<sup>62</sup> In cases like these, the OND does not contact the Ode: it has come to adopt a pre-defined strategy of providing only legal support, which, however, does not seem to lead to any legal action: lawyers simply advise complainants of the best times to go to the Ode, or to check information on the internet.<sup>63</sup>

### ***Dealing with private agents: the city markets and discrimination***

In discrimination cases filed against private agents, the thing which hinders the OND’s capacity to mediate is the complex and systemic nature of discrimination. When on the other hand discrimination is direct and overt, as in the case on racist advertising and the right to ‘image’ reported by the OND, things seem to go smoothly: the OND advised the complainant to pursue litigation in court and was involved in the legal proceedings as a ‘specialist’. In addition to this special and isolated complaint, mediation by the OND seems prevalent and to some extent successful in cases of refusal of admission to bars and clubs on purely discriminatory grounds, which is prohibited by Article 512 of the Spanish Criminal Code, by Catalan legislation integrated by a royal decree of 1982, and by police regulation. In many cases reported by the OND, the owners of the public premises claimed they did not know or had misunderstood the law, apologised to the complainant and granted admission (only one ‘man of colour’ refused the apology). In these and less successful cases, as we have seen, the OND may offer the owner of the premises some training, using the threat of the law to try to change the overall admission attitude of the premises. Two cases were also reported to and investigated by the police (including through ‘discrimination testing’ by undercover officers); one led to the admission of the complainants (some Romanian brothers) and one was archived. The impression is that police intervention may not lead to an outcome different from OND intervention. According to the OND, the problem is that the police rarely start a formal investigation of a case or raise the discriminatory motivation provided by Article 22.4 of the Criminal Code, not only because of their lack of knowledge of the law but also because of their limited staff.<sup>64</sup>

OND intervention becomes less successful as we move to markets where more hidden, complex and systemic forms of discrimination emerge and no support from the police can be expected. One is the housing market. In the cases reported by the OND, mediation was prevalent but also unsuccessful: the migrants involved had all the necessary papers and financial guarantees but were all refused rental or sale either by landlords or by intermediate agencies. In one case which involved a ‘French man of Maghrebian origin’, the OND even

convinced a real estate agency to sign a declaration in which it confirmed that the complainant had been discriminated against by the landlord. In my interviews, the OND staff openly recognised their difficulty in dealing with housing discrimination and raised typical questions of systemic discrimination, and in particular the number of agents that actually concur in discriminating either because they wish to (landlords) or because they obey landlords (mediators and building administrators). The OND has met with different actors and stakeholders in the housing market to make them aware of their legal responsibility but this has not stopped discrimination.<sup>65</sup>

The problem here is that the OND does not seem to have the authority or powers to investigate and remedy housing discrimination in an effective manner. In fact, the only successful case reported by the OND is a 2001 complaint concerning discriminatory advertisements posted on the website of the Association of Housing Administrators, where the City Council requested the sub-delegation of the government to sanction the association in accordance with the anti-discrimination clause of the *Ley de Extranjería*. The case was successful but, it must be noted, it was an ‘easy’ case of overt discrimination. Nevertheless, still in 2006 new discriminatory notices were posted on administrators’ websites.<sup>66</sup> In 2003, OND complaints prompted a 2003 RDC study led by the Autonomous University of Barcelona, which investigated housing discrimination affecting different collectivities of the city.<sup>67</sup> During a public event reporting on the findings of the study, the then head of the RDC, Roser Veciana, lamented the special vulnerability of migrants and people with disability in the city housing market.<sup>68</sup>

The same complexity and problem of lack of powers also emerge in the employment market, especially in combination with the undocumented status of the workers allegedly discriminated against, to the extent that the OND, which in its early cases would attempt mediation, now openly advises complainants to seek more effective remedies in court. One reason for suggesting judicial strategies is the substantial question of monetary compensation that is often involved in a case, which only judges can decide on the basis of the established Spanish case-law on the matter.<sup>69</sup> The question, however, does not seem to be simply a question of the protection and remedies that the law can offer in theory: on labour matters the OND technicians advise people to pursue litigation because they are convinced that labour law is effectively enforced by courts.<sup>70</sup>

### **On the relationships between human rights and cities**

The use of human rights by local governments pushes sociologists – and indeed also lawyers and political scientists concerned with this field of study and open to interdisciplinary research – to re-think and eventually re-conceptualise human rights in relation to the city. The analysis of the treatment and outcome of the OND migration-related cases aimed to provide a sociological account of a particular set of practices of this agency, which anyway seem to reflect a wider OND approach to its cases. These practices have changed over time according to the conditions in which the OND has found itself to be working. They suggest different ways in which local governments can contribute to (migrant) human rights, but tell also of the constraints that limit them: a complex interconnection of local and supra-local factors. Furthermore, I was also interested in one traditional task of the sociology of law: checking rights in practice as opposed to rights on paper. In this respect, the OND work highlighted some crucial limits and ambiguities within the judicial system, and the actors involved in it: the lack of knowledge of human rights-related norms, staff shortages, the length of judicial proceedings, and a minimal commitment to human rights. Furthermore, the police emerge contradictorily both as violators of human rights

and as actors involved in their implementation. In fact, this ambiguity reflects at the micro-level that of the state in the wider human rights system. Many of these results are known facts and point to the need to move beyond a purely legal approach to human rights violations. In the following, I will elaborate further on the findings of this research and the way in which cities can contribute to make the approach to human rights more comprehensive and sophisticated. As part of this, I will also trace directions for future research.

To begin with, the state and its migration policy emerge as the crucial 'context' for local efforts to implement migrant human rights. In this respect, the findings of this contribution confirm that 'citizenship of a nation-state remains the most certain and secure means of access to many of the fundamental rights which we now regard as universal, at least in principle'.<sup>71</sup> The *Ley de Extranjería* defines the legal statuses of migrants and limits the OND margin of manoeuvre towards the solution of its cases, forcing the OND to pursue different strategies to manage different rights. Future research on the OND could probe different areas of the OND intervention and will probably find fewer constraints of this type as complainants will be, in many cases, full citizens. Not surprisingly, the divide between the documented (denizen) and undocumented (un-citizen) status is a powerful predictor of the capacity of the OND to negotiate positive solutions to complaints, in particular those raising typical human rights issues. Cases related to the right to information and migrants' access to the Ode exposed the difficulty for a body like the OND to facilitate the transition from the un-citizen to the denizen status. In a sense, by using the right to information as a human rights argument, the OND finds itself in the position of the ECtHR when it uses the right to private life to re-discuss the status of the complainant. But the OND is obviously not the ECtHR and does not even try to negotiate a solution to its cases directly with the Ode (as it does in an ombudsman style with Spanish consulates on family rights cases). This lets us imagine that the divide between the denizen and un-citizen is too strong, that the Ode is not even accessible to the OND, and/or that maybe the solution of each individual case would be too complicated and time-consuming.

The local government, however, matters too. Spanish municipalities play a formal role in the management of the state migration policy and can have an impact on human rights. At the same time, it is clear that municipalities should not be considered as collective actors with a unified human rights agenda: different sectors, parties and bureaucracies inside them may have different and sometimes conflicting ideological orientations, knowledge and commitments in relation to human rights. In this respect, the recent negative opinions taken by the municipality of Barcelona in relation to some *informes* on housing requirements signal that local governments may be less advocates on matters of migration than what is suggested by their human rights policy. And this may be true especially if municipalities are under the pressure of an increasingly unsupportive public opinion (see the question of *pisos pateras*). So far, the OND has not managed to reverse the conclusions of any of these negative *informe*. The question seems difficult also because it may entail a direct confrontation between the OND and other sectors of the city government.

The previous paragraph leads us to re-define more closely the relation between human rights and the city intended as a 'unit', the context in which the OND acts with its economic and social actors and conflicts. In this respect, the city matters and the OND is completely inside it: it is a policy that intersects particularly harsh and territorialised forms of discrimination stemming from the city and its employment, housing and leisure markets. On the one hand, the OND 'captures' cases of human rights violations often brought directly by migrants or the local NGOs. Here, the OND and NGOs appear to be in a relationship of mutual support in respect to the implementation of their respective mandates. However, in the light of studies already carried out on the dynamics of co-option of NGOs by the

Barcelona city government, a closer inquiry into how migrants relate to the OND and human rights, and the role of 'mediation' played by NGOs, would be necessary.

On the other, the OND faces private individuals and companies, many of whom arguably contributed to the city's economic development but who in many cases dislike any limitations on their entrepreneurial freedom (in this case, the prohibition of racial and other forms of discrimination). In fact, business does not seem always inclined to negotiate human rights solutions. The fact that the OND is part of the local government and that this or the police may intervene in support of human rights, provides the OND with an important tool and gives it some possibilities, for example, in cases of admission. This does not happen in the case of housing: notwithstanding their increasing dispersal across city districts, migrants experience systemic forms of discrimination involving landlords and other intermediary figures. These act with a sense of impunity against which negotiations and other forms of dialogue started by the OND prove of little help. Even when a more powerful institution such as the sub-delegation of the state intervenes, a 'positive' solution may only be temporary. In the housing market the colour of the skin probably counts more than any legal statuses, as shown by the OND complaints which involved a French man of African origin.

As such, we could ask ourselves if it is worth it for (European) cities to implement human rights policies. The answer is a 'yes' subject to two conditions. First, local human rights policies should be more structurally incorporated into supra-local efforts to fight human rights violations on the basis of the added value of their proximity to, and knowledge of, these violations. At the same time, this incorporation should be managed so that it brings real advantages to the city and enhances, to say it with Keating, the 'governing capacity'<sup>72</sup> of cities to foster inclusion. In this respect, the collaboration between the FDOD and the OND seems an interesting initiative which may deserve further attention. However, cities may also benefit from a more direct incorporation into the EU anti-discrimination policy: the mixed governance and multi-level approach designed by de Búrca may be a useful starting point<sup>73</sup> provided one is aware of the widespread abuse and ideological manipulation of the concept 'governance'. Secondly, local governments and, in particular, their mayors should actively support human rights institutions such as the OND by giving it adequate resources (to reach out to migrants that may be more in need of its interventions, for example) *and* by pushing the mainstreaming of human rights across all the different city departments.

## Conclusions

This contribution was meant to give more visibility and 'academic thickness' to the growing debate on the relationships between human rights and cities, repositioning this debate in the field of the sociology of human rights. It relied on one case and attempted a first generalisation, identifying migration status and systemic discrimination as the factors that can have a major impact on local human rights policies. More needs to be explored of this and other cases in order to construct a more solid picture of how cities (or better certain actors within them) view human rights, why they use them, what they do with them and what they get out of them. Researchers will probably find that human rights assume many forms and are implemented in ways that reflect traditional discourses, meanings and uses of human rights but also specific urban and often idiosyncratic options, preferences and priorities.

At the same time, it may also be interesting to see the extent to which cities do not simply 'receive' human rights but might be willing and able to: 1) redefine them, in the direction of reducing the legal and practical gap between them and citizenship rights; but also 2) redefine them, starting with their proximity to people affected by human rights

and, in particular, their violations. This redefinition should question, in particular, the universality of human rights. In this respect, this contribution problematised human rights from with respect to their universal legal reach and application but did not touch on the crucial aspect of their moral or cultural foundations. With respect to the latter, as cities become increasingly culturally diversified, they seem well positioned to start a participatory discussion on what human rights are for all its inhabitants, of whatever status. The work of the OND, with its bottom-up (and even 'psychological') approach to human rights and the centrality of the will and well-being of the complainant in the process of resolution of human rights violations, offers an example of rights adapted to the human and not, as often happens, of rights pre-defined and imposed on humans. If the ultimate perspective is to reconceptualise rights for social emancipation, then cities (including their human rights institutions and social movements) can probably play a role.<sup>74</sup>

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### Notes

1. Find the *European Charter for the Safeguarding Human Rights in the City*, available at [http://www.idhc.org/cat/documents/Carta\\_ingles.pdf](http://www.idhc.org/cat/documents/Carta_ingles.pdf) (accessed January 29, 2010).
2. A general introduction to the UNESCO coalition is available at [http://portal.unesco.org/shs/en/ev.php-URL\\_ID=3061&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/shs/en/ev.php-URL_ID=3061&URL_DO=DO_TOPIC&URL_SECTION=201.html) (accessed January 29, 2010).
3. Martha F. Davis, 'Thinking Globally, Acting Locally: States, Municipalities, and International Human Rights', in *Bringing Human Rights Home: A History of Human Rights in the United States, Vol.2, From Civil Rights to Human Rights*, ed. Cynthia Soohoo, Catherine Albisa and Martha F. Davis (Westport, London: Praeger, 2008), 127–52.
4. For an account of urban citizenship, see Robert A. Beauregard and Anna Bounds, 'Urban Citizenship', in *Democracy, Citizenship and the Global City*, ed. Engin F. Isin (London and New York: Routledge, 2000), 243–56.
5. See Michele Grigolo, 'Human Rights and the City: Anti-Discrimination Laws and Policies in New York and Barcelona' (PhD diss., European University Institute, 2009).
6. Between 2003 and 2007, the RDC was named 'City Department for Women and Civil Rights'. For more information, see the RDC's official website: [http://w3.bcn.es/XMLServeis/XMLHomeLinkPl/0,4022,259064949\\_271177360\\_1,00.html](http://w3.bcn.es/XMLServeis/XMLHomeLinkPl/0,4022,259064949_271177360_1,00.html) (accessed January 28, 2010). From there, one can easily link to the OND's webpage, which provides general information and many of the documents I quote in this contribution, and used in its preparation.
7. In Europe, Dutch city Anti-discrimination Bureaus have provided this type of service for about 30 years. Yet, these are not purely public agencies. In the US, city commissions on human rights exist in several cities and enact local civil rights statutes. The OND was actually modelled on the human rights commission of San Francisco. Interview with Agustí Soler (Head of RDC, 1995–1999), Barcelona, 16 February 2005.
8. Interview with Guadalupe Pulido (OND Director), Gustavo Czech-Bergholt Tejeria (OND technician) and Anna Figueras (lawyer), 18 February 2010.
9. On this see, for example, Richard Drabble, James Maurici and Tim Buley, ed., *Local Authorities and Human Rights* (Oxford and New York: Oxford University Press, 2004).
10. Anthony Woodiwiss, *Human Rights* (London and New York: Routledge, 2005), 121.
11. *Ibid.*, 4.

12. Statistics concerning OND complaints are published regularly in annual leaflets posted under the section 'documents OND' of the RDC's website at [http://w3.bcn.es/XMLServeis/XMLHomeLinkPI/0,4022,259064949\\_271177360\\_1,00.html](http://w3.bcn.es/XMLServeis/XMLHomeLinkPI/0,4022,259064949_271177360_1,00.html) (accessed 31 August 2010). For this article, I used those from 2003, 2004, 2007 and 2008. The OND also provided me with a file containing statistics of complaints from 2006. A 2007 OND publication provides data on cases covering nine years of activity of the Office (1998–2006): see Oficina per la No Discriminació (OND), *8 anys vetllant pels drets civils: Barcelona 1998–2006* (Barcelona: OND, 2007). The sample of cases reported by the OND was posted on the agency's website: see <http://www.bcn.es/ond/en/queixes.html> (accessed May 14, 2007). These 21 migration-related complaints are actually complaints that the OND categorised differently as discrimination 'due to being an immigrant and/or a member of a cultural minority' in 1999, discrimination 'due to origin' in 2000, and discrimination based on 'racial discrimination' in 2001. These reports contain: (1) information on the right allegedly violated; (2) a brief summary of the facts of the complaint and the issues at stake, including the nationality of the person(s) involved in the complaint; (3) the type of intervention that the OND carried out (mediation or legal support) and, with some exceptions; (4) the outcome of the OND's intervention. These data have been integrated by information provided by interviews that I conducted with the current and former staff of the RDC and the OND between 2004 and 2010.
13. Daniel Thym, 'Respect for Private and Family Life Under Article 8 ECHR in Immigration Cases: A Human Right to Regularize Illegal Stay?', *International and Comparative Law Quarterly* 57, no. 1 (2008): 87.
14. Gary P. Freeman, 'National Models, Policy Types, and the Politics of Immigration in Liberal Democracies', *West European Politics* 29, no. 2 (2006): 227.
15. See Lydia Morris, *Managing Migration: Civic Stratification and Migrant Rights* (London: Routledge, 2002); and Kate Nash, 'Between Citizenship and Human Rights', *Sociology* 43, no. 6 (2009): 1067.
16. Spain, *Ley Orgánica 4/2000 de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social*, BOE, 12 January 2000. An updated version of this law can be found at [http://noticias.juridicas.com/base\\_datos/Admin/lo4-2000.html#](http://noticias.juridicas.com/base_datos/Admin/lo4-2000.html#) (accessed 31 August 2010).
17. On this, see Ricard Zapata-Barrero, 'Policies and Public Opinion Towards Immigrants: The Spanish Case', *Ethnic and Racial Studies* 32, no. 7 (2009): 1101.
18. Maria Helena Beyoda Muriel and Eduard Solé Alamarja, 'El procés de normalització de treballadors estrangers del 2005', in: *L'estat de la immigració a Catalunya. Anuari 2005. Volum I: Anàlisi jurídica i sociodemogràfica* (Barcelona: Editorial Mediterrània, 2006), 38–61.
19. Robert Agranoff, 'Local Governments in Spain's Multilevel Arrangements,' in *Spheres of Governance: Comparative Studies of Cities in Multilevel Governance Systems*, ed. Harvey Lazar and Christian Leuprecht (Montreal & Kingston, London, Ithaca: McGill-Queen's University Press, 2007), 56–61.
20. Ricard Zapata-Barrero and Nynke de Witte, 'D1 Preliminary Report on the Migration Situation of Each Country Prepared for the Project', *A European Approach to Multicultural Citizenship. Legal Political and Educational Challenges*, 2006, 10, [http://www.upf.edu/gritim/\\_pdf/griip-emilie\\_wp1.pdf](http://www.upf.edu/gritim/_pdf/griip-emilie_wp1.pdf) (accessed January 14, 2010).
21. See Europa Press, 'Zapatero asegura que el nuevo Reglamento de Extranjería clarificará las condiciones del padrón', *La Vanguardia*, 10 March 2010, <http://www.lavanguardia.es> (accessed January 14, 2010).
22. Different sociological explanations of this phenomenon have been provided. One is grounded on social polarisation: see John H. Mollenkopf and Manuel Castells, ed., *Dual City: Restructuring New York* (New York: Russel Sage foundation, 1991); Saskia Sassen, *The Global City: New York, London, Tokyo* (Princeton, NJ: Princeton University Press, 1991). An alternative explanation is the 'skill mismatch' theory: see William J. Wilson, *The Truly Disadvantaged: The Inner City, The Underclass, and Public Policy* (Chicago: Chicago University Press, 1987).
23. Ronald van Kempen, 'Segregation and Housing Conditions of Immigrants in Western European Cities', in *Cities of Europe: Changing Contexts, Local Arrangements, and the Challenge to Urban Cohesion*, ed. Yuri Kazepov (Malden, Oxford, Victoria: Blackwell Publishing, 2005), 190–209.
24. Michael Keating, *Comparative Urban Politics. Power and the City in the United States, Canada, Britain and France* (Aldershot, Brookfield: Edward Elgar, 1991).

25. Patrick Le Galés, *European Cities and Social Conflict* (Oxford: Oxford University Press, 2002).
26. In this respect, see Marisol García, 'The Case of Barcelona', in: *Metropolitan Governance and Spatial Planning: Comparative Case Study of European City Regions*, ed. Willem Salet, Andy Thornley and Anton Kreukels (London and New York: Spon Press, 2003), 337–58.
27. An important wave of external migration began in the 1960s from Africa and Latin America; migration from Latin America (including students and refugees) continued through the 1970s. In the 1980s, Asians too began to arrive in the city. See Ricard Morén-Alegret, *Integration and Resistance: The Relation of Social Organisations, Global Capital, Governments and International Immigration in Spain and Portugal* (Aldershot, Burlington, VT: Ashgate, 2002), 62–3.
28. Concerning data for 1996, see Ajuntament de Barcelona, Departament d'Estadística, *La població estrangera a Barcelona, Gener 2005*, <http://www.bcn.es/estadistica/catala/dades/inf/pobest/pobest05/pobest05.pdf>. Concerning the foreign population for 2009, see Ajuntament de Barcelona, Departament d'Estadística, *La població estrangera a Barcelona, Gener 2009*, <http://www.bcn.es/estadistica/catala/dades/inf/pobest/pobest09/pobest09.pdf>. Total absolute figures for all years are taken from an online table at <http://www.bcn.es/estadistica/catala/dades/anuari/cap02/C020101.htm> (all websites accessed January 29, 2009).
29. On the 2009 figures, see again Ajuntament de Barcelona, Departament d'Estadística, *La població estrangera a Barcelona, Gener 2009*. In relation to the 2005 figures, see again the Statistics Department: for the 2009 figures at Ajuntament de Barcelona, Departament d'Estadística, *La població estrangera a Barcelona, Gener 2005*.
30. Miguel Pajares, 'La inserció laboral de la població immigrada', in *L'estat de la immigració a Catalunya. Anuari 2006. Volum I: Anàlisi jurídica i sociodemogràfica* (Barcelona: Editorial Mediterrània, 2007), 335–67.
31. The dissimilarity index is one of the most internationally diffused and debated tools to measure different forms of segregation. It aims to highlight inequality between two groups, a majority/advantaged group and a minority/disadvantaged group. In the case of residential segregation, the index usually measures the concentration of a group in selected rich and poor areas of a city. Higher values correspond to higher concentration and, eventually, segregation. For the first conceptualisation of the index, see Otis Dudley Duncan and Beverly Duncan, 'A Methodological Analysis of Segregation Indexes', *American Sociological Review* 20, no. 41 (1955): 210–17.
32. Joan Carles Martori and Karen Hoberg, 'Segregació residencial de la població estrangera a Barcelona (2001–2005)', in *L'estat de la immigració a Catalunya. Anuari 2006. Volum I: Anàlisi jurídica i sociodemogràfica* (Barcelona: Editorial Mediterrània, 2007), 369–85.
33. See Ricard Morén-Alegret, 'Tuning the Channels: Local Government Policies and Immigrant Participation in Barcelona', in *Multicultural Policies and Modes of Citizenship in European Cities*, ed. A. Rogers and J. Tillie (Aldershot, Burlington, US, Singapore, Sidney: Ashgate, 2001), 61; Davide Però, 'Migrants and the Politics of Governance: The Case of Barcelona', *Social Anthropology* 15, no. 3 (2008): 271–86.
34. On the Ordinance and the RDC reaction to it, see Michele Grigolo, 'Human Rights and the City: Anti-Discrimination Laws and Policies in New York and Barcelona', 345–6.
35. OND, *8 anys vetllant pels drets civils: Barcelona 1998–2006*, 32.
36. *Ibid.*, 22.
37. Interview with Pulido, Czech-Bergtholt and Figueras.
38. In Spain the Roma community commonly defines itself as a community of *gitanos* without any pejorative implications or meaning. The Spanish *Fundación Secretariado Gitano* (Gypsy Secretariat Foundation) employs 'gitanos' to refer to the Spanish Roma and 'Roma' to refer to Roma people on a European scale. See [http://www.gitanos.org/servicios/prensa/preguntas\\_frecuentes/index.html](http://www.gitanos.org/servicios/prensa/preguntas_frecuentes/index.html). It is within this framework that I translate 'gitanos' with 'gypsies'. On the particularly hard forms of marginalisation experienced by the gypsy community in Spain (although the situation in Barcelona may be better than elsewhere) see Alfredo Alphageme Chao and Mariví Martínez Sancho, 'Estructura de edades, escolarización y tamaño de la población gitana asentada en España', *Revista Española de Investigaciones Sociológicas*, no. 106 (2004): 161–74.
39. Interview with Pulido, Czech-Bergtholt and Figueras.
40. Interview with Isabela Santaulària (technician), Barcelona, 4 December 2006.
41. This is the expression used by Guadalupe Pulido as opposed to simply 'referring' people to other city services. Interview with Pulido, Czech-Bergtholt and Figueras.

42. See Sandra Fredman, 'Introduction', in *Discrimination and Human Rights: The Case of Racism*, ed. Sandra Fredman (Oxford: Oxford University Press, 2001), 3; Kathrin Zippel, *The Politics of Sexual Harassment: A Comparative Study of the United States, the European Union, and Germany* (Cambridge: Cambridge University Press, 2006), 114–16, 220–3.
43. Interview with Pulido, Czech-Bergtholt and Figueras.
44. Interview with Pulido and Czech-Bergtholt, Barcelona, 17 November 2004.
45. Article XII of the Charter provides that 'The right of the citizens is recognised to have information of various kinds and from various sources in relation to the social, economic, cultural and local administrative life, limited by a respect for the privacy of the individual and the protection of small children and young people.'
46. See the Coalition website at <http://www.proaccesso.org> (accessed May 15, 2010).
47. I discussed the definition of these categories during all my interviews with Pulido, Czech-Bergtholt, Figueras and with Isabela Santaulària of both 4 and 7 December 2006.
48. OND, *8 anys vetllant pels drets civils: Barcelona 1998–2006*, 23.
49. Interview with Pulido, Czech-Bergtholt and Figueras and interview with Miguel Angel Aguilar (FDOD), Barcelona, 18 February 2010.
50. OND, *8 anys vetllant pels drets civils: Barcelona 1998–2006*, 39.
51. Interview with Pulido, Czech-Bergtholt and Figueras.
52. OND, *8 anys vetllant pels drets civils: Barcelona 1998–2006*, 49.
53. Interview with Pulido, Czech-Bergtholt and Figueras.
54. Ibid.
55. OND, *8 anys vetllant pels drets civils: Barcelona 1998–2006*, 20.
56. Interview with Santaulària, 7 December 2006.
57. See Generalitat de Catalunya, 'Els Mossos d'Esquadra amplien el protocol contra els delictes homo 'fobs a lots els delictes motivats per odi o discriminació,' 17 May 2010, available at [http://premsa.gencat.cat/pres\\_fsvp/docs/2010/05/17/18/S7/d9b294fc\\_fcc2\\_441b\\_9267fadd21eba.pdf](http://premsa.gencat.cat/pres_fsvp/docs/2010/05/17/18/S7/d9b294fc_fcc2_441b_9267fadd21eba.pdf) (accessed 1 September 2010).
58. Interview with Miguel Angel Aguilar.
59. See both the sample of cases and interview with Pulido and Czech-Bergtholt.
60. Interview with Pulido, Czech-Bergtholt and Figueras.
61. Ibid.
62. Interview with Pulido and Czech-Bergtholt.
63. Interview with Santaulària, 7 December 2006.
64. Interview with Pulido, Czech-Bergtholt and Figueras.
65. Interview with Santaulària, 7 December 2006.
66. Ibid.
67. See Ajuntament de Barcelona, Regidoria de Dona i Drets Civils, *L'Habitatge un dret vulnerat: Habitatge i discriminació* (Barcelona, 2003).
68. Amador Guallar, 'Los inmigrantes y los discapacitados son marginados en la búsqueda de vivienda', *El Mundo*, 18 April 2002, <http://www.elmundo.es/2002/04/18/catalunya/520007.html> (accessed May 15, 2010).
69. Interview with Santaulària, 7 December 2006.
70. Interview with Pulido, Czech-Bergtholt and Figueras.
71. Lydia Morris, *Asylum, Welfare and the Cosmopolitan Ideal: A Sociological of Rights* (Abingdon, New York: Routledge, 2010), 145.
72. Keating, *Comparative Urban Politics*, 191.
73. Gráinne de Búrca, 'EU Race Discrimination Law: A Hybrid Model?', in *Law and Governance in the EU and the US*, ed. Gráinne de Búrca and Joanne Scott (Oxford, Portland, OR: Hart Publishing, 2006), 97–120.
74. Boaventura de Sousa Santos, *Diritto ed emancipazione sociale* (Troina: Città Aperta Edizioni, 2008).

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