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Managing Diversity in Spanish Society: A Practical Approach

Ricard Zapata-Barrero

This paper examines the main elements of Spanish diversity management and specifically its philosophy. It defends the argument that Spain follows a practical philosophy. 'Practical philosophy' refers to a way of managing diversity which is not based on established and preconceived ideas, projected by its own social construction such as French republicanism or British multiculturalism, but rather on questions and answers generated by the practice of governance of diversity. The Spanish practical philosophy is neither universalistic nor closed by rigid theoretical principles. At this point, the problem emerges when this context acts as a restraint for proactive policies, since it is based on an identity, a history and a structure that impede innovation and change. The first section of the paper describes the Spanish diversity management framework, by focusing on the identity, the historical and the structural contexts. The second section, analyses three main policy realms – education, labour market and political rights policy realms – applying the framework discussed in the first section. Finally, I present an outline of the basic elements of the Spanish 'practical philosophy' of diversity management.

Keywords: Citizenship; Diversity; Integration; Multiculturalism; Multinationalism; Practical Philosophy; Spain

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Introduction: Spain as a Laboratory of Diversities

Spain is a laboratory of diversities because practically all the main forms of diversity are in interplay with each other, possibly expressing new dimensions that need to be deeply explored. In developing the innovative future research on diversity in Europe, Spain may serve as an example for illustrating the importance of interconnecting the different dynamics of diversities that past multicultural debates have treated separately (Zapata-Barrero 2009a, 2009d).

Given this framework, it is surprising that “there is not a discourse policy on identity nor on multiculturalism” in Spain (Zapata-Barrero 2009c, p. 119). This is particularly clear when we analyse the parliamentary debates and the political parties’ discourses. It seems as if there was a common tacit fear of talking about immigration in identity terms. For example, the words ‘multiculturalism’ or ‘interculturality’ were not pronounced once in the seven governmental terms, between 1982 and 2004 (Marquez Lepe 2007, p. 99). The parliamentary debates demonstrate how we are at the beginning of the construction of a political discourse in Spain, where political parties seek to take their positions and start to assume premises to interpret this phenomenon. On the contrary, the debate has revolved around security and socio-economic issues. Different governments have mainly managed migration processes in national terms in order to avoid negative effects in citizens’ vital spaces.

This paper examines the main elements of Spanish diversity management and specifically its philosophy. It defends the argument that Spain follows a practical philosophy. ‘Practical philosophy’ refers to a way of managing diversity which is not based on established and preconceived ideas, projected by its own social construction such as French republicanism or British multiculturalism, but rather on questions and answers generated by the practice of governance of diversity linked to immigration. Moreover, an important characteristic of this practical philosophy is that it has the advantage of being guided by anticipation, in contrast to the experiences of other European countries. It is on this basis that Spain is building its own philosophy. The Spanish practical philosophy is neither universalistic nor closed by rigid theoretical principles, but a philosophy constructed through practical questions generated by context. At this point, the problem emerges when this context acts as a restraint for proactive policies, since it is based on an identity, a history and a structure that impede innovation and change. The first section of the paper describes the Spanish diversity management framework, by focusing on the identity, the historical and the structural contexts. The second section, analyses three main policy realms – education, labour market and political rights policy realms – applying the framework discussed in the first section. Finally, an outline of the basic elements of the Spanish ‘practical philosophy’ of diversity management is presented.

The Spanish Framework of Diversity Management

This first section describes the Spanish diversity management framework, with special focus on the identity, historical and structural contexts, and finally summarises all the main findings under the title “New Challenges for Diversity Management in Spain”.

The Identity Context

Despite the lack of political debate, Spanish identity is present in the design and implementation of policies, within two basic categories of diversity: religion and language. As I shall demonstrate, these categories are institutionally promoted and affect most of the policies on diversity in Spain.

Maybe one possible way of understanding why the debate on identity is avoided is because it is both unsolved and incomplete, when we take into account the debate on multinationality. It is probably for this reason that Spain has not dared to resolve the identity debate since the Transition to democracy (1975–78). Identity issues related to immigration can potentially provoke another identity issue still unclear and politically unwanted: multinationality. It is at this point that two dynamics of diversity interact in Spain.

However, it is also true that there is a positive side to this lack of debate on identity: the lack of a normative ground for the appearance of anti-immigration parties, such as those that have sprung up all over Europe since the 1980s. The debate on identity in Spain has only been present in Catalonia, and it is directly related to the effects of immigration on the Catalan identity. That is, only at the level of historical autonomous communities does immigration become a political identity problem (Gil 2009). All of these elements can be summarised in Figure 1.

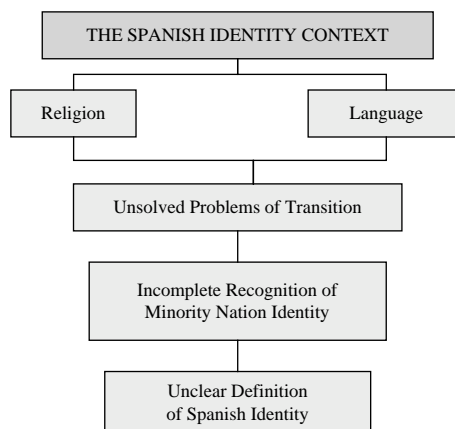


Figure 1 The Spanish identity context.

I, therefore, defend the following argument, which will orientate this section: the premise is that the Spanish identity is still in process, still in construction, a fact that makes it potentially open to changes and, at the same time, open to flexibility in the management of diversity related conflicts. I argue that, in order to understand the lack of debate on identity in Spain, linked to the diversity generated by immigration, we need to look at the historical and structural contexts. These contexts are what make it difficult for the Spanish identity to accommodate the growing dynamics of diversity and act as the main restriction on proactive policies toward diversity management. This proactive and reactive movement is managed with pragmatism, showing that the philosophy orientating Spain is a practical philosophy (Zapata-Barrero 2009b), as I will argue in the concluding section.

The Historical Context

One of Spain’s distinctive characteristics is that its historical periods directly affect the way it understands and manages different forms of diversity today. This historical context can be summarised in Figure 2.

Figure 2 shows that the sequence is chronological rather than separate, adding up discriminating elements into the current management of diversity. Each period is briefly summarised below.

In order to explain the ‘maurophobia’ existing in Spain, we can take as evidence the historical iconography of the Moors, which started during the period of the *Reconquista* (Re-conquest), when the Spanish Catholic Kings expelled the Muslims from Spain in 1492 after more than eight centuries of the kingdom of Al Andalus. Since then, a negative picture of the Moors has been present in Spain, until becoming the ‘other-opposite’ necessary to consolidate the Spanish identity (Zapata-Barrero 2006, p. 148).

Hispanidad (can be translated as *Spanishness*) is a political term that was created during the Spanish colonial period, and re-used later during the Franco dictatorship, “precisely to comprise the whole Spanish area of influence, designating a linguistic (Spanish) and religious (Catholic) community and creating a sense of

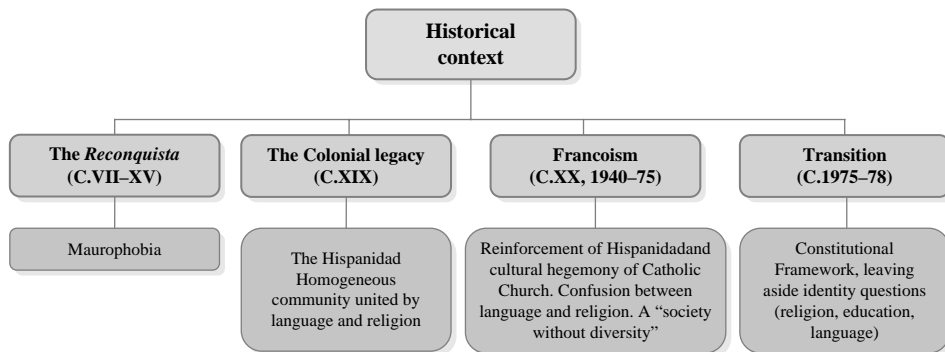


Figure 2 The historical context of diversity in Spain.

belonging, excluding non-Spanish speakers, atheists and Muslims” (Zapata-Barrero 2006, p. 148). The Franco regime (1940–75) reconstructed this term as a symbol of homogeneity and unity, in order to impose a sentiment of loyalty and patriotism (González Antón 1997, p. 613). This exclusion still exists today, founding the discourse against Moroccans and favouring the Spanish-speaking immigrants. The political Francoist argument ‘*habla cristiano*’ (Speak Christian) is a clear example of how the regime promoted the confusion between Spanish (language) and Christianity (religion), for building its own concept of unity excluding any sort of diversity. Spain was a ‘society without diversity’, or, even more, a society criminalising by law any form of expression of diversity (other language, other religion, . . .)

Finally, the Transition period (1975–78) shows how the political and social consensus expressed in the Constitution (1978) did not foresee the new challenges related to diversity, because it leaves aspects linked to religion, and linguistic and national pluralism unresolved. For instance, the Catholic Church still has certain control over the cultural hegemony in the educational system and is acting against current political decisions related to “education for citizenship”, which recognise homosexual marriage amongst other disputed topics. There is still a fear of changing the Spanish Constitution in order to grant voting rights to all permanent residents, without national distinction. Also, the difficulties of multinational recognition still remain in the social and political debate. These historical legacies are still present when immigration policies are being drawn up and clearly limit the innovation and implementation of proactive policies directed at the management of diversity related conflicts.

The Structural Context

There are two elements illustrating the structural context that restrains diversity management in Spain: the multinational and the legal frameworks. Moreover, as we can see in Figure 3, the legal framework is based on the Spanish Constitution, the Foreigners Law and the Spanish Civil Code. Let us introduce briefly the main characteristics of each one separately.

The multinational framework: the unresolved dynamic of diversity. If there is a dimension of diversity inherent to the very identity of Spain, it is indeed multinationalism (see Gagnon and Tully 2001, Máiz and Requejo 2005, Requejo 2005). One of the main

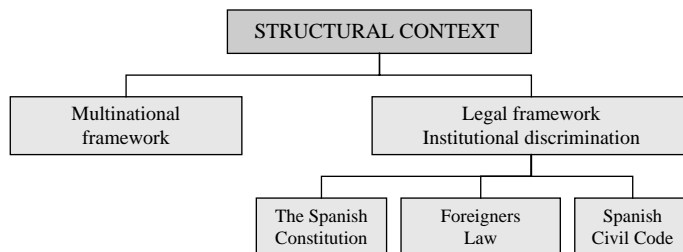


Figure 3 The structural context.

characteristics of Spain is that it is composed of at least three main historical minority nations each with its own language: Galicia, the Basque Country and Catalonia. Since the promulgation of the Spanish Constitution in 1978 the multinational social reality still needs mutual political recognition. This scenario supposes additional challenges in the management of diversity linked to immigration. Probably, one of the biggest problems (Miret 2009) is that the current division of competences prevents the minority nations from developing comprehensive public policy on immigration. However, it is also true that the conflict of competencies in this matter has been scarce so far.

What we are witnessing today is the emerging link between two dimensions of diversity: national minorities and diversity provoked by the arrival of immigrants (mainly religious, linguistic and cultural). It is here that the Catalan case study exemplifies the main questions related to the two dynamics of diversity (see Zapata-Barrero 2009d). However, even if there is a debate around national identity in this framework in Catalonia, maybe the debate should be around the discourse of how to reconcile this new diversity (immigrants) with the diversity already existing (multinationality) (Zapata-Barrero 2009a, 2009d).

Hence, in the multinational context of Spain there is a nationalist split in which the defence of the language and identity of Catalonia and the Basque Country are issues present in the debates and policies. Immigration adds a second variable to the social reality of multiculturalism, and affects the process of nation-building. It, therefore, not only requires debate about rights and non-discrimination, but also about the language of identity, the use of political instruments of self-government and language policy.¹ Immigration presents a potential danger to the Catalan culture and identity, especially with regard to the future of the Catalan language. As a consequence, Catalan language immersion is one of the main policies of the Catalan government (Statute of Autonomy of Catalonia n.d.) with regard to immigrants' integration.

This is particularly visible in the bilingual education system (Departament d'Educació 2007, p. 6). In the Autonomous Communities where a second official language is promoted (like Catalonia, the Basque Country and Galicia), immigration represents a challenge to identity politics and has resulted in specific challenges around how to manage bilingualism and, now, multilingualism in schools. The Language Standardisation Laws (*Llei de Normalització Lingüística* 1983) gave Catalan, Basque and Galician an official status in their respective territories and also provided regional authorities with control over the educational system and the possibility to develop bilingual education programmes and distinctive curricula. In Catalonia and the Basque Country the authorities consequently started a process of 'standardisation' of Catalan and *Euskera* (Basque language). In both communities linguistic departments were established to enforce laws that put the national language on an equal status with Spanish, also in compulsory education (Departament d'Educació 2007, Statute of Autonomy of Catalonia n.d.).

This nationalist split is also present in the discourse of the nationalist parties. For example, the Catalan nationalist parties, *Esquerra Republicana per Catalunya* (The Republican Left of Catalonia – Independentist Party) and *Convergència i Unió* (Catalan

Nationalist Party, from centre right), consider that democracy can only be exercised with common values, based on fundamental rights and with a minimum identification with the citizens and the language of the country. They consider that obtaining nationality and permanent residence depend not only on time, but also on the knowledge of the language or the history of the country. This is why they condition the voting rights of immigrants on the realisation of courses and citizenship exams that evaluate their integration into the receiving society. For them, the priority is integration and later participation, arguing that the crisis of integration in the Netherlands shows how voting rights will not guarantee the integration of immigrants. Moreover, the nationalist parties sometimes use the immigration debate as an argument for making demands in the areas of self-finance and self-government.

The legal framework: a framework of institutional discrimination. The legal framework plays an important role in the management of diversity, mainly because of the Foreigners Law (*Ley de Extranjeria*)² and the Spanish Constitution. Furthermore, the Spanish Civil Code is evidencing a very clear situation of ethnicisation by creating a situation of selection by origin (Zapata-Barrero 2004, p. 55). Figure 4 summarises the legal framework affecting diversity management in Spain.

The Spanish Constitution (1978) laid down a legal framework of democratic principles and made equal treatment and non-discrimination, next to liberty, justice and political pluralism, basic pillars of the non-confessional state. Moreover, Article 13.1 of the Spanish Constitution equates the rights of foreign residents to those of Spanish citizens. However, in Article 13.2 it explicitly excludes immigrants' right to vote and to be elected³ except in those cases where it is established by treaty or when the law attends to the principle of reciprocity.⁴ This exclusion does not affect EU nationals resident in Spain. Since the adoption of the Maastricht Treaty (1992) and the reform of the Spanish Constitution,⁵ EU citizens are entitled to vote in municipal and European Parliament elections. Hence, the Constitution creates a framework of institutional discrimination or ethnicisation, with only 'preferential nationalities' receiving full political rights. In addition, as we have seen above, the Spanish Constitution is very rigid and difficult to change (Ferrerres Comella 2000). Therefore, the Constitutional framework dictates the management, limiting innovation and providing a legitimate basis for reactive discourses.

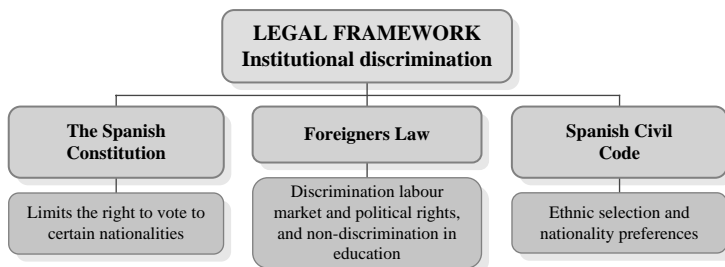


Figure 4 The legal framework affecting diversity management.

In addition, the Foreigners Law (*Ley de Extranjería*) deals with all the issues related to immigration, including education, labour and political rights. For example, in educational issues, the Foreigners Law establishes that foreigners under 18 years old have the right and obligation to receive education under the same conditions as Spaniards, which means free and obligatory primary and secondary education (see Article 9 of Organic Law 4/2000). One of the distinctive features is that Spain considers education as a universal good, to be distributed independently of the status of people (citizens/non-citizens) and even, independent of the administrative status of the immigrant (documented/undocumented).⁶ The Spanish approach towards education is, thus, based on human rights beyond other legal considerations.⁷ In addition to this approach of equal opportunities, the Foreigners Law prescribes that public authorities should promote the facilitation of education needed by foreign residents, in order to improve their social integration, with respect to their cultural identity (see Article 9 of Organic Law 4/2000).

In relation to labour market issues, we must add that the Foreigners Law is discriminatory; it is only legally possible to contract third-country nationals in their country of origin and only for positions that cannot be filled by unemployed Spanish or EU workers, in the same sector and region. In the private sector, discrimination in hiring is enforced under the legal principle of primacy for Spanish and EU nationals. Other forms of institutional discrimination faced by third-country nationals that have managed to come to Spain with a work permit, or have obtained it later, are the limits put on sector and territorial mobility. Each time a foreign worker (without a permanent work permit) changes employer he/she must obtain a new work permit from the government and for the renewal he/she must show a social security card. All those who fail to meet the legal requirements established in the Foreigners Law become irregular immigrants, without legal status, and often end up working in the underground economy without a contract, social security, labour rights or other mechanisms to defend themselves. In the public sector, EU citizens and third-country nationals face discrimination again when it comes to accessing jobs, because the status of 'nationality' is required for jobs that "directly or indirectly imply participation in the exercise of authority or functions that are considered object of state and public security" (Real Decreto: Article 57 of Law 7/2007, also Law on the Rights and Freedoms of Aliens: Article 10.2 of Law 4/2000). In this context, the Spanish Civil Code is also indirectly discriminatory as it is far easier for certain national groups to obtain Spanish nationality than for others. In some of these 'more sensitive' public jobs the integration of third-country nationals has recently been promoted, as, for example, the Catalan police force and the Spanish armed forces. However, in the latter only a selected group of immigrants with historical ties, Latin American countries and Equatorial Guinea, have been accepted since 2003 (up to 7 per cent), and they can only occupy low-ranking positions.

Finally, with regards to the Spanish Civil Code, there is a clear ethnic selection and nationality preference procedure. For example, Article 22.1 of the Spanish Civil Code (Ministerio de Justicia 2002) establishes that for the concession of citizenship a period

of 10 years' residence in Spain is required. Five years is enough for those who have obtained refugee status and two years for those nationals coming from Latin American countries, Andorra, the Philippines, Equatorial Guinea, Portugal or Sephardic (descendants of the Jews that lived in the Iberian Peninsula until 1492). This article is clearly linked to the tradition of *Hispanidad* by creating a situation of selection by origin (Zapata-Barrero 2004, p. 55). In other words, the Spanish Civil Code establishes a framework of 'institutional discrimination' (Zapata-Barrero 2004, pp. 58–61), which has a direct impact on the political rights dimension (where preferential nationalities have more facilities compared to other nationalities when it comes to obtaining rights, specifically voting rights).

Summary: New Challenges for Diversity Management in Spain

Spain relies on a complex framework for diversity management. Furthermore, if we consider immigration as another case of diversity not separate from other types of diversity (Kymlicka and Norman 2000), we can say that in Spain there are four main types of diversity, three old ones (linguistic, religious, multinational) and one new challenge (immigration) that interact with each other (Zapata-Barrero 2009a). As we shall see in Figure 5, the management of new diversity has to deal with the different aspects of the Spanish Framework, creating, as a consequence, new challenges related to the three old questions: religion, language and nationalism.

Figure 5 shows the elements that make up the diversity management framework in Spain. On the one hand, (a) the historical context forms the basic elements of Spanish identity by discriminating on the grounds of religion and language. The *Reconquista* provoked *Maurophobia* that discriminated against Muslims, gave priority to Christian people and has become an element of the Spanish identity. *Colonialism* created the feeling of *Hispanidad* (*Spanishness*), which gave priority to Spanish speakers, and has become another important element of the Spanish identity. In addition, as we have seen, *Francoism* influenced religious and language discrimination by enhancing the

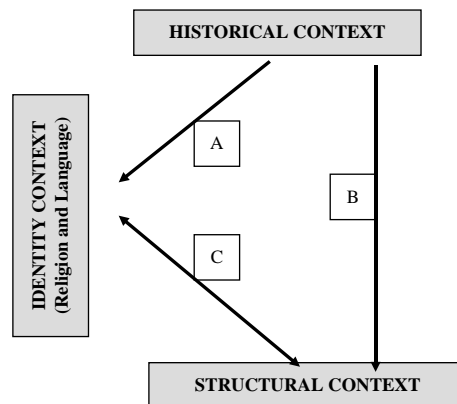


Figure 5 The Spanish framework related to diversity issues.

feeling of *Hispanidad*, and also *Mauophobia* with its unconditional support of the Catholic Church. Finally, the *Transition period* also influenced religious discrimination giving privileges to the Catholic Church in the educational system (*concertada* schools – schools financed partly by the state and partly by the Catholic Church), showing the asymmetrical relation with the Catholic Church and therefore discrimination against other religions (Moreras 2003).

On the other hand, (b) the historical context also influences the structural context, based on the establishment of a Constitution and a Civil Code that gives priority to preferential nationalities (Spanish speakers and Christian nationalities), it is also the source of the unsolved problems of the transition, as it does not fully recognise minority nation identities.

It is also important to mention the interrelation that exists between the structural context and the identity elements. Here, (c) the legal framework (based on the Spanish Civil Code, the Spanish Constitution and the Foreigners Law) establishes an institutional ‘ethnicisation’ where preferential nationalities have more facilities, compared to other nationalities, when it comes to obtaining full social and political rights, as well as Spanish nationality. This institutional discrimination basically affects non-Christians, for instance, Muslims, as well as non-Spanish speakers. Furthermore, as mentioned earlier, the fact that the debate on minority nations is still incomplete and without a clear definition and mutual recognition, probably explains why Spain has not dared to resolve the debate about identity since the Transition.

Hence, we can argue that each legal or institutional aspect is like a ‘wall’ which blocks every attempt to promote policies or changes in diversity management. This allows us to conclude that there is a rigid and discriminating framework in Spain that threatens a more proactive way of managing the emerging dynamic of diversities due to the growing presence of immigrants (seen as different expressions of diversity). Spain started to legislate on migration issues in 1985, and in the last two decades there have been some structural and legal changes that help to define the strategies of diversity management. However, the framework presented in Figure 5, shows that Spain probably needs to discuss again the basis of their social and political contract, in order to avoid structural discriminations, to overcome the different challenges and conflicts exposed in other chapters (mainly Chapters 1 and 2), and above all, to promote structural changes that facilitate diversity management without any kind of discrimination.

Management of Diversity in Spain: Education, Labour Market and Political Rights Policy Realms

In this section I apply the framework explained in the section above into three main policy realms: educational, labour market and political rights realms. These three areas are indeed the most illustrative examples on how the Spanish framework of diversity management described in part one works in practice and affects the policies

of diversity management until the point of impeding policy innovation and structural change.

Education Policy Realm

The decentralisation of state power after Spain's transition to democracy has resulted in a decentralised education system and therefore a variation in approaches towards the management of cultural diversity among different Autonomous Communities. These differences are most explicit in the area of language education. In addition, the decentralised education system has resulted in a situation where cultural diversity is mainly dealt with at the individual school level, usually following a compensatory approach, by which immigrant alumni are given special attention in learning the official language(s) and in bridging educational and cultural gaps. Generally, it can be said that while education for equal opportunities has been developed within compensatory policy programmes, education for diversity is a new policy discourse within Spain and in practice largely depends on the efforts of educational centres. In this context, there is a lack of knowledge on the part of policy-makers about the implementation of state and regional policies related to this education for diversity.

In addition, the historical influence of the Catholic Church on education has led to a situation of cultural hegemony. The fact that Catholic religion classes are offered in all public schools, while classes in minority religions are almost absent (in spite of the bilateral agreements signed with the Jewish, Muslim and Protestant communities), and, the fact that the Catholic Church and affiliated parties tried to prevent changes in religious education and the implementation of a new course entitled "education for citizenship", recommended by the Council of Europe, can provoke social tensions with the Muslim community in the short term. Furthermore, the Catholic *concertada* schools – schools financed partly by the state and partly by the Catholic Church – have failed to incorporate immigrant alumni, thereby creating a situation where immigrant children are concentrated in public schools.

Finally, because immigration is relatively new in Spain, policy-makers have drawn up policies that follow the Intercultural Education Approach, based on European concepts and values of integration. Policy-makers have different views on the meaning of this new approach and it often remains unclear what is exactly meant by this intercultural approach that lies somewhere between the assimilation and multicultural models of integration. Broadly speaking, intercultural education is conceptualised as an approach that is aimed at teaching all alumni values such as tolerance and respect, in order to live in *convivencia* (peaceful coexistence)⁸. The training of existing and new teachers is one of the main challenges. Therefore, it seems that the current scope of intercultural education is limited to efforts to train educational staff in values such as recognition and mutual respect, along with some marginal changes in the curriculum, while implementation is largely dependent on the willingness and interpretations of individual schools.

This approach is the result of a growing public debate within the policy community on the need to promote the respect for Spain's cultural diversity. In this context, the idea of 'intercultural education' has gained popularity in the policy arena. Based on this approach, the state administration has introduced a new course, called 'Education for Citizenship' and has promoted intercultural education materials. In Catalonia, intercultural education is mainly understood as an attitudinal change that teachers are delegated to promote among alumni, and as a guiding principle for cultural diversity problem-solving by means of peaceful negotiation and dialogue (rather than by legislating the limits of cultural diversity in the public sphere). The Education Department of Catalonia has introduced, in 2007 with the implementation of the Language and Social Cohesion Plan, the so-called local education plans (*planes del entorno*) that take the current cultural diversity characteristic of Catalonia's population into account and aim at creating an educational oriented local environment around schools in order to help pupils from all backgrounds achieve school success and avoid marginalisation.

Even though cultural diversity is perceived as an opportunity for enrichment of Spanish and Catalan schools (and society), the management of language and religious diversity highlights the limits of this intercultural approach in practice. Although interculturalism is the declared goal, in essence, integration is still pursued through assimilatory practices.

Language diversity management is essentially understood as *standardisation* (*normalización*) by policy-makers; that is, incorporating immigrants within the mainstream of society whilst avoiding any direct/indirect segregation side effects. This approach can be found in the so-called 'compensatory programmes' that were originally developed by the state in order to integrate the Roma minority in mainstream schools (Gorreta Bochaca 2006). These programmes were applied towards migrant students when they started entering the classrooms of Spanish schools in the 1990s and concentrated on linguistic difficulties encountered and focused on bridging cultural and educational ability gaps. Compensatory programmes target marginalised groups in general. The instrument of so-called *aulas de acogida* (insertion classes) organised in Catalonia (and other Autonomous Communities) specifically target immigrants who learn the Catalan language (as vehicle language). Many schools also have a specialist teacher, the so-called 'cultural mediator' who helps immigrant children and their parents with their social integration in the education system; mainly by solving conflicts related to language difficulties or cultural differences. Teaching immigrant alumni in their mother-tongue language is not part of the official curriculum, and is not regarded a priority (Department d'Ensenyament 1996).

Religious diversity is approached differently largely due to the hegemonic position that the Catholic Church maintains in the Spanish education system. First, as presented above, Catholic classes are offered in all public schools, while classes on other religions are almost absent (in spite of the bilateral agreements signed with local Jewish, Evangelic and Muslim communities). Second, relevant Education and Integration policy documents do not mention the management of religious diversity.

Third, the Catholic Church and its affiliated parties tried to prevent changes in the status of religious education in compulsory education and the implementation of the new course 'Education for Citizenship'. After heated debates the Socialist government managed to implement a new Education Law in 2006 that has made religious education optional, introduced the subject 'Education for Citizenship' and established 'attention to diversity' as a basic principle of the educational system.

Labour Market Policy Realm

The change in government in March 2004 has had an impact on policy orientations. Before 2004, when the right-wing *Partido Popular* (Popular Party) was in government, the migration policy was focused on security and trying to control migration flows by toughening the Foreigners Law, with policies concentrated on restrictions and on 'building barriers'. This restrictive immigration policy encouraged the black economy and had negative results in terms of irregular immigration (Zapata-Barrero 2008, p. 387). However, since the *Partido Socialista* (Socialist Party) has been in government there have been some changes. The most important one has been the shift in focus from security towards the link between immigration and the labour market. Policies are now concentrated on the capacity of the Spanish labour market to absorb immigration. This focus is what provoked the last regularisation process, called the 'normalisation process', with the purpose of 'normalising' the life of irregular immigrants already working in Spain in the informal economy (Cachón-Rodríguez 2006).

In Spain, discrimination of immigrant workers primarily refers to those working in the underground economy, facing harsh working conditions, without basic rights and protection. In this context, the fragmentary anti-discrimination legislation, the lack of sensitivity among the judiciary and the lack of social consciousness on the issue of discrimination leads to a legal battle against the discrimination of immigrant workers, that is largely confined to combating the exploitation of irregular workers and is highly dependent on local initiatives and non-governmental actors.

In this sense, the immigrant is considered as *Homo economicus*. This conceptualisation makes it difficult to enter into a more in-depth debate, a debate in which immigrants need not only to be integrated in the labour market dimension but also in the social, cultural and political ones. Although immigration has become a consolidated part of Spanish society, policies that try to manage migration-related diversity are in the first phase of what Zapata-Barrero (2004) calls 'the process of multiculturalism' (*proceso de multiculturalidad*). In this first phase, the principle concern is for equal access to rights, while it is only in the second phase (when equal rights are guaranteed) that discrimination, understood as unequal opportunities and unfair treatment, is taken into account. The fight against discrimination in Spain is determined by a language of equal rights, both in terms of access and conditions, related to the legal status of immigrants. This discourse is an indicator that Spain is in the first phase of the 'process of multiculturalism'. The lack of concern for equal

treatment and opportunity, which are assumed under conditions of equal rights, goes along with an increasing concern for diversity management in private companies.

In contrast, combating discrimination at the workplace, in terms of equal opportunities, is perceived as a future challenge by policy-makers and stakeholders. There are many recommendations to improve the fight against discrimination in the labour market and at the workplace, such as preventing institutional discrimination of immigrant workers (by improving legal access to the labour market and the security of immigrants' legal status, by creating more flexible mechanisms for contracting foreign workers in their countries of origin or by giving more flexibility to renovate work permits and access to the Social Security System), or improving the use of control mechanisms and existing legal instruments to fight discrimination (by improving the work of labour inspections and other control mechanisms in compliance with the Penal Code and the Foreigners Law) as well as creating an integral anti-discrimination law, which would give more leverage to introduce the principle of equal treatment and non-discrimination throughout all policy fields.

Catalonia gives some additional insight in the implementation of state policy objectives at the regional and local level. Policies of anti-discrimination from the Catalan government (Statute of Autonomy of Catalonia n.d.) can be found in the Citizenship and Immigration Plan (*Pla de Ciutadania i Immigració 2005–2008*). The plan develops several reception policies that promote equal treatment and opportunities of immigrant workers, like the provision of (optional) free courses to learn the official languages (Spanish and Catalan),⁹ some basic knowledge about the country, the labour market and workers' rights for all recently arrived immigrants and special reception programmes for companies. Next to reception policies, specific equality policies in the area of the workplace include training professionals working for the Catalan Employment Agency and the development of professional mobility policies of the same agency (Generalitat de Catalunya 2005, pp. 85–86). In addition to these reception and equality policies, the Catalan Secretary for Immigration promotes the management of (all kinds of) diversity in companies, labour unions and employers' organisations.

It needs to be mentioned that the new competences of the Catalan government after the approval of the 'Statute of Autonomy' (*Estatut*) in 2006 has given incentives to the development of new integration policies, including the fight against discrimination.¹⁰ One important outcome has been the Law for the Reception of Immigrants (*Llei de acollida*)¹¹ which establishes the norms for reception of immigrants in Catalonia. Another initiative is the preparation of a National Immigration Pact (*Pacto Nacional de la immigración*),¹² which includes policies that aim to give work permits to immigrants that enter through family reunification and immigrants who have studied in Spain.

More important than creating new policies and instruments is the improvement of the implementation of existing norms, including normal labour legislation (like the Workers' Statute and Sanction Law), the Foreigners Law and Penal Code; and the functioning of existing institutions, like Labour Inspectorates and the Judiciary.

The Non-Discrimination Office in Barcelona, which is part of city hall and was established in 1998 as an observatory for violations of rights in the city,¹³ is the only governmental institution we encountered in Catalonia providing assistance to victims of discrimination, but there are also several non-governmental organisations active in this field.

It remains to be seen how labour market policies will change in the future, when immigrant children will enter the labour market in larger numbers. The challenge for policy-makers in improving equal rights for immigrant workers' treatment and opportunities is crucial for the future of a Spanish diverse society, as discrimination existing in the labour market and at the workplace strongly influences social discrimination in other areas of life.

Political Rights Policy Realm

The issue of immigrant voting rights is one of the main ongoing debates related to immigration in Spain, and is becoming increasingly important both socially and politically (at the parliamentary realm). The demand for immigrant voting rights from immigrant associations, left-wing political parties and other social actors become more pronounced before elections.¹⁴ The promotion of voting rights is difficult because of a lack of innovation for change and the resources to do so. Voting rights for immigrants were not an issue when the Constitution was written. Efforts to promote the voting rights of immigrants are hindered by the difficulties that constitutional change poses and the fear of the main political parties to do so, as well as the fact that this issue can negatively affect the government's electoral interests. Furthermore, the ethnicisation of the Civil Code, or the discrimination by origin when obtaining Spanish nationality, discriminates against immigrants in the function of their origin when it comes to promoting voting rights. A reform of the Civil Code to avoid discrimination by nationality, culture or origin, when applying for Spanish citizenship would be an important step towards promoting immigrant voting rights.

At present it seems that the government is taking the first steps to promote immigrant voting rights, with the approval of a special ambassador with the mission of increasing the number of reciprocity agreements and the decision to create a subcommission in the Congress of Deputies to study the possible constitutional and legal reforms. However, these first steps and decisions can become a significant failure if no constitutional reform is made in the meantime. If no constitutional reform is made the promotion of reciprocity agreements will not only promote fundamental rights through bilateral agreements but also discriminate against immigrants coming from countries that do not or cannot have agreements with Spain, hence provoking the perpetuation of inequalities between groups of different origins and reinforcing structural ethnicisation.

In relation to the political participation of immigrants in consultative bodies, it is important to mention that the *Forum for the Social Integration of Immigrants* (the national consultative body with immigrant representation) has broadened its

consultative and participative capacity, since the approval of the Royal Decree 3/2006 on 16 January 2006.¹⁵ In this case, the *Forum* gained more power, such as, the possibility to promote and elaborate studies and initiatives related to the social integration of immigrants and also the capacity to promote reports on the proposals, plans and programmes related to immigration, not only when asked by the central administration but also on its own initiative. This allows Spanish immigrant associations to have an important representative consultative body. Moreover, the *Forum* and all entities represented in this body are doing an important job, analysing and recommending policies, reached by consensus, in order to improve the integration of immigrants. One example of the contribution of immigrant associations to the *Forum* was the participation in the drawing up of the *Strategic Plan for Citizenship and Integration 2007–2010* (Secretaria de Estado de Inmigración y Emigración 2007), approved in March 2007, which aims to lay the foundation for guiding policies in education, admission and employment, enhancing social cohesion, promoting equal opportunities and equal rights and duties. However, taking into account our interviews, these recommendations can only be considered relevant if the government makes the necessary changes and takes them on board, considering that the *Forum* is a body with a consultative function but not a compulsory one.

Elements of the Spanish Practical Philosophy of Diversity Management

Taking into account the Framework of Diversity Management (identity, historical and structural contexts), and how it works in practice at three policy realms (education, labour market and political rights), we can conclude that Spain is developing its diversity management competence by induction, taking the policy instruments and developing its legal and regulatory instruments respecting its already political and administrative decentralised structure. This inductive process of managing diversity means first of all that it is not the result of an initial constitutional agreement, with powers already territorially delimited among different levels of government. As it has been shown in the three main areas of analysis, it is much more of a problem-driven policy and practical answer procedure that orientates Spanish diversity management.

In this sense what Spain is expressing is undoubtedly a *practical philosophy* (Zapata-Barrero 2009b). By ‘practical philosophy’ I mean that the Spanish way of managing diversity is not based on established and preconceived ideas, projected by its own social construction such as French republicanism or British multiculturalism, but rather on questions and answers generated by the practice of governance of diversity. This pragmatism gives strategic directions for political action. Moreover, an important characteristic of this practical philosophy is that it has the advantage of being guided by anticipation, in contrast to the experiences of other European countries. It is a fact that Spain is taking advantage and is managing this ‘time advantage’ with pragmatic criteria, predicting future problems by looking at other European states. It is on this basis that Spain is building its own philosophy. Spain knows the outcomes of other policies and by reflecting on its own challenges and

issues – what ‘has to be avoided’ – it evaluates and builds its own policy to manage the diversity generated by immigration.

The Spanish practical philosophy is neither universalistic nor closed by rigid theoretical principles, but a philosophy constructed through practical questions generated by context. At this point, the problem emerges when this context acts as a restraint for proactive policies, since it is based on a history and a structure that impede innovation and change, and does not take into account the Spanish identity within the new dynamics of diversity provoked by immigration. It is at this point that the future policy debate will undoubtedly generate normative challenges.

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Notes

- [1] Important in this context is the new *Estatut* (voted for in a referendum by the citizens of Catalonia on 16 June 2006 and by 90 per cent of the Catalan Parliament) as the first legal framework that speaks about immigration in terms of necessities and claims of competencies.
- [2] Law on the Rights and Freedoms of Aliens 14/2003 of 20 November (Ley Orgánica 14/2003, de 20 de noviembre, de Reforma de la Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social, modificada por la Ley Orgánica 8/2000, de 22 de diciembre).
- [3] Spanish Constitution: Article 13.1. “Aliens in Spain shall enjoy the public freedoms guaranteed by the present Part, under the terms to be laid down by treaties and the law.”
- [4] The principle is conditioning the voting rights of immigrants in Spain, to the rights received by the Spanish emigrants in their receiving countries.
- [5] The first and only reform of the Spanish Constitution since its approval consisted in changing Article 13.2 as a consequence of the approval in 1992 of the Maastricht Treaty. Then Article 13.2 is as follows: “Only Spaniards shall have the rights recognised in Article 23, except in cases established by treaty or by law concerning the right to vote and the right to be elected in municipal elections, and subject to the principle of reciprocity” (this text includes the first constitutional reform adopted on 27 August 1992; which added the words ‘and the right to be elected’ to the paragraph).
- [6] The schooling of children of irregular immigrants is based on the UN’s International Convention on Rights of the Child ratified by Spain.
- [7] Following the theory of goods applied to policies for managing immigration, Zapata-Barrero (2002, pp. 85–87) argues that the properties of education are symbolic, collective and heterogeneous. We can say that the symbolic and collective properties are followed in Spain, but that the heterogeneity of the good is still on the political and social agenda. The homogeneity/heterogeneity depends on the interpretation. A good is homogeneous when

there is no discussion about its value, and a good is heterogeneous when not everybody values the primary good in the same way.

- [8] See, among others, Aguado and Malik (2001), Colectivo Amani (2007), Etxeberria (2002), Muñoz (1997).
- [9] In spite of Article 32 which states that “there shall be no discrimination on the basis of use of either of the two languages”; the lack of knowledge of Catalan is mentioned explicitly as reducing equal opportunity and provoking discrimination (Generalitat de Catalunya 2005, p. 32).
- [10] See Article 138 of the *Estatut* for the new competences Article 42.6 more explicitly states that “the public authorities shall take the necessary measures to establish a system for receiving immigrants, and shall promote policies to guarantee recognition and effectiveness of their rights and obligations, equality of opportunity and the services and assistance that will facilitate their social and economic accommodation and their participation in public affairs” (see also Parliament of Catalonia 2006).
- [11] See <http://www.gencat.cat/benestar/societat/convivencia/immigracio/acollida/index.htm>
- [12] The National Immigration Pact (which is still in the consultation process) is an agreement between governmental and non-governmental stakeholders in Catalonia on how to manage migration related diversity. See also: <http://www.gencat.net/benestar/societat/convivencia/immigracio/pni/consultiva/index.htm>
- [13] The Charter for the Safeguarding of Human Rights in the City, signed by the City of Barcelona, establishes in its Article II the principles of equality of rights, and of no discrimination for all those who live in the signatory cities, irrespective of their nationality. It states that “these rights are guaranteed by the municipal authorities, without any discrimination on the grounds of color, age, sex or sexual orientation, language, religion, political opinion, national or social origin, or level of income”. The charter can be found at <http://www.oficinanodiscriminacio.com>
- [14] “Los inmigrantes quieren votar”, *El País*, 19 May 2007; “Sindicatos y ONGs reclaman el derecho al voto para los inmigrantes”, *El País*, 20 February 2008; see Parliamentary Proposition to extend the right to vote in municipal elections to foreign legal residents by the Parliamentary Groups of the Socialist Party and Izquierda Unida-Iniciativa per Catalunya Verds (Green United Left Party), 16 August 2006; Parliamentary Proposition of January 2006 (debated 21 February) in order to advance in the recognition of the right to vote and to stand as a candidate for the foreign citizens in Spain.
- [15] On its establishment, in 1995, the *Forum for the Social Integration of Immigrants (Foro para la Integración de los Inmigrantes)* was defined as a “body of a consultative nature, with capacity to issue reports and recommendations” related to the social integration of immigrants “and to adopt agreements on its own initiative or by a nonbinding consultation with the Administration”.

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