

## GYPSY LEGISLATION IN SPAIN, 1499-1783

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Gypsies, also known as Roma, are nomadic peoples who can be found throughout Europe. They arrived in the western part of the continent in the early 1400s, when western European states were becoming more centralized. With this consolidation of power came the rapid spread of anti-Gypsy laws across western Europe. As Gypsies were expelled from one country after another, they shuffled between them, and many of the Gypsies eventually ended up in Spain.<sup>1</sup> Over the course of almost three hundred years, from the late fifteenth century to the late eighteenth century, Spanish rulers attempted to deal with the Gypsy population within their state. At first, the Gypsies were welcomed, but this did not last long. They began to be perceived as threats to the Spanish people, culture, and religion. Thus, Ferdinand and Isabella, in 1499, initiated a long stream of anti-Gypsy legislation that lasted until Charles III's reign in 1783. Anti-Gypsy legislation presented an interesting problem for Spanish rulers because they had no precedents to follow. The Gypsies were not perceived to be a problem in Spain until the late 1400s, and therefore, when Ferdinand and Isabella issued the first law against Gypsies, they could not look back at the past to determine the most effective approach for either integrating or excluding the Gypsies.

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From Ferdinand and Isabella to Charles III, each ruler saw that his predecessor's laws had been ineffective,<sup>2</sup> so he tried a slightly different approach. In retrospect, their policies can be analyzed in terms of two major elements: goals and methods. The laws' apparent goals ranged from expulsion to assimilation, while the methods varied from coercion to persuasion. Although most of the rulers mixed both methods and goals, in general their legislation began as largely coercive and supported by penalties of exile, whipping, and galley service. Eventually, the laws progressed to be more persuasive and to focus more on assimilation of Gypsies into Spanish society. The transition was by no means smooth, however, and the legislation's apparent goals vacillated wildly between the extremes of assimilation and expulsion,<sup>3</sup> with rulers often resorting to using the Gypsies as a labor force when they found that they could neither rid Spain of them nor integrate them. Many of the rulers also failed to see that their laws, regardless of the approach, were not being effectively implemented. In short, the three hundred years of anti-Gypsy legislation reflect the rulers' uncertainty, lack of definite policy choices, and failure to adequately enforce the laws. Ultimately, however, Charles III was able to create a law that would have a lasting impact.<sup>4</sup>

Although their ethnic background has been debated, the general consensus is that Gypsies originated in northern India. This is confirmed by their blood groups, certain cultural similarities, and the close relationship between Sanskrit and Romany, the language spoken by the Gypsies. There are conflicting theories about what place Gypsies held in Indian society or how they lived, but most historians believe that they were a loose federation of nomadic tribes living outside of the Indian caste system.<sup>5</sup> There are three main types of Gypsies mostly named for the areas to which they migrated: Kalderash Gypsies, Munush Gypsies, and Gitáños; the last is the group found in North Africa, the South of France, Portugal, and Spain.<sup>6</sup>

Gypsies seem to have first entered Spain in the fifteenth century, arriving in southern Spain from North Africa across the Straits of Gibraltar and in northeastern Spain from France over

the Pyrenees Mountains. Actual initial dates of arrival are not known, but the first official record was made in Barcelona in 1447. Their presence, recorded in *Annales de Catalunya*,<sup>7</sup> is believed to have been part of a mass movement of thousands of Gypsies into Barcelona.<sup>8</sup> It seems, however, that there were some Gypsy movements into Spain through North Africa before the 1440s.<sup>9</sup>

The Gypsies were unlike the Spaniards surrounding them in many ways. They had darker skin, non-European features, different dress, and spoke another language, Romany. They generally belonged to nomadic, tribe-like groups, and had their own system of government. While traveling throughout the country, they carried on trades of metalworking, mule clipping, horse trading, fortune-telling, and performing song and dance.<sup>10</sup>

Although they were very different from Spaniards, when Gypsies first arrived in Spain the rulers and their subjects gave them warm welcomes. Many of the early Gypsies found themselves the recipients of king-granted privileges, letters of immunity from certain laws, alms, and guarantees of armed assistance if needed. Much of this elevated status stemmed from the fact that when the Gypsies initially arrived in Spain in the 1400s, they claimed to be royalty from a place they termed the Kingdom of Little Egypt.<sup>11</sup>

The Spanish attitude toward Gypsies rapidly altered, however. By the 1470s, new, larger waves of Gypsies were appearing in Spain, encouraged by the success of the earlier immigrants. The Gypsies now did not receive the same type of treatment, partially because they no longer claimed to be Little Egypt's royalty. Also, the Spanish commoners began to resent the required alms-giving. Supporting the Gypsies strained the lower class's resources, and the Gypsies seemed to be a threat to Spanish safety, religion, and culture. They engaged in open conflicts with Spanish Church officials, abused their privileges, and began to be seen by Spaniards as "irredeemably truant, clannishly astute, ignorant, superstitious, and given to the occult..."<sup>12</sup>

Subsequently, Gypsies developed a bad name for themselves. They were accused of being thieves, scam artists, propagators of witchcraft and sorcery, and a people who had no respect for

Christian religious observances. In 1613 Miguel de Cervantes, the great Spanish author, wrote *La gitanilla*, a book which reflected the popular sentiment at the time toward Gypsies as a threat to public safety.<sup>13</sup> In one part he wrote:

It seems that the Gypsies came into this world to be thieves; they are born to thieving parents, they grow up with thieves, they study to be thieves, and in the end, they turn out to be nothing but thieves; and their desire to steal and stealing are inseparable qualities that only disappear with death.<sup>14</sup>

Anti-Gypsy sentiment also came from Catholic leaders in Spain, who saw Gypsies' superstition as a threat to Spain's devout Christianity.<sup>15</sup> In the 1630s, Father Pedro de Figueroa wrote:

Their actions place the Faith in grave danger, because they live an impious life, they intend nothing but wickedness, and their life goal is the greater neglect of their soul. Their deceits are either pacts with the demon, or lies in order to steal...I was correct to call them vassals of the demon because a band of Gypsies is no other but an arm of Satan.<sup>16</sup>

Such perceptions of Gypsies were what ushered in a new era in Spanish Gypsy history, one that would last almost three hundred years. Between 1499 and 1783, each monarch issued or revised Gypsy legislation at least twelve times. But despite the plethora of anti-Gypsy legislation, hardly any of it had any real effect on the Gypsy population.<sup>17</sup>

Even if the rulers had known exactly how they wanted to deal with the Gypsies and had created perfect laws, they probably still would have failed because few of the laws were ever enforced. Much of the reason that the laws were never effectively enforced was because of rampant corruption in the Spanish justice system. Often, Gypsies were able to bribe officials assigned to the task of executing the laws. Despite the fact that the commoners began to resent the Gypsies in the 1470s, the nobility continued to help them, even in hard times. In return for the help, Gypsies would often steal horses and give them to their benefactors. The nobles often claimed that they could not resist helping the Gypsies because of the women's seductiveness.<sup>18</sup> George Borrow, author of *The Zincoli*, one of the few books in English focusing on Spanish

Gypsies, believes that corruption is the only way to explain why Gypsies continued to flourish in the face of such a barrage of laws against them. He writes, "Spanish justice has invariably been a mockery, a thing to be bought and sold, terrible only to the feeble and innocent, and an instrument of cruelty and avarice."<sup>19</sup> Even when the rulers realized this problem, as Philip IV (1621-1665) did, the laws they passed to punish people who helped Gypsies were ineffective because enforcement was put in the hands of the very people who were breaking the laws.<sup>20</sup>

Gypsies could also avoid the laws passed against them because of their nomadic nature and Spain's topography. It was almost impossible to find all of the Gypsies because they were not a settled community. In addition, Gypsies could easily hide in the Spanish wilderness, whose terrain lent itself to such elusiveness.<sup>21</sup>

The very beginning of anti-Gypsy legislation in Spain came at the end of the fifteenth century under Spain's first united reign. Before 1479, Spain was not a united nation. In 1469, however, Ferdinand, son of the King of Aragon, one kingdom in what would become Spain, married Isabella. Isabella was the sister of King Enrique VI of Castile, another kingdom in Spain. When Enrique VI died in 1474, it led to a war of succession between Isabella and Doña Juana, his daughter, who both tried to claim the throne. The civil war lasted from 1475 to 1479, ending in victory for Isabella and Ferdinand. In 1479, they began their united reign of Spain. They set out to restore law and order after the civil war and to consolidate centralized power.<sup>22</sup>

At first, it did not seem as though Ferdinand and Isabella would issue anti-Gypsy legislation. For example, they did not immediately cancel the Gypsies' privileges. They even issued some letters of protection for a limited duration, although the emphasis was less on alms and more on the Gypsies' rights to have legal and honest trades for their livelihoods.<sup>23</sup>

In 1499, however, Ferdinand and Isabella began the legal persecution of Spanish Gypsies. Their law's approach was based on making the Gypsies either assimilate or leave Spain. On March 4, this Pragmatic Sanction of Medina del Campo declared that

Gypsies had to settle down within sixty days or face life-long exile from Spain. The law specified that they had to reside in already established towns and adopt honest trades under a “master whom they might serve for their maintenance.” Alternatively, the Gypsies could leave Spain within the same sixty days to avoid punishment.<sup>24</sup> In 1502, Ferdinand and Isabella issued another *pragmática* which made all Gypsies, and in fact all inhabitants of Spain, officially Roman Catholics. In response to these decrees, the Gypsies in Spain neither left nor changed their lifestyles; this juxtaposition of law versus reality would set the tone for the next three hundred years of legislation.<sup>25</sup>

After Ferdinand and Isabella’s lack of success, the next Spanish ruler tried his luck. Charles I, also Emperor Charles V of the Holy Roman Empire,<sup>26</sup> maintained the law of 1499’s coercive attitude but shifted the emphasis away from exile. Instead of continuing to try to expel the Gypsies, he attempted to use them as a labor force for the state’s benefit. In 1538, he reissued the Pragmatic Sanction of Medina del Campo. It declared:

Decree of their Highnesses given in the year 1499, and Law No. 104 in the Decrees, confirmed and ordered to be observed in the court in which it was celebrated in Toledo in the year 1525, Law No. 58, in spite of any clause which may have been given to the contrary.<sup>27</sup>

He also added his own modifications, stating:

Gypsies are not to move about these kingdoms, and those that may be there, are to leave them, or take trades, or live with their overlords under penalty of a hundred lashes for the first time, and for the second time that their ears be cut off, and that they be chained for sixty days, and that for the third time that they remain captive forever to them who take them.<sup>28</sup>

By 1539, however, Charles I made it clear that the preferred sentence for Gypsies was time in the *chusma*, or rowing force of the galleys. At Toledo, he declared that all male Gypsies between the ages of twenty and fifty would be put in the royal galleys for six years if caught in Spain. At this time the Spanish government was in dire need of galley squadrons due to warfare with the Islamic Empire in the Mediterranean.<sup>29</sup> When the 1539 law did not round up enough men for the galleys, Charles I issued

another law in 1552, extending time in the galleys to all vagabonds. He defined vagabonds to include, in addition to Gypsies, foreign tinkers and the healthy mendicant poor. They were given four years for the first offense, eight for the second, and life for the third. Like previous and subsequent laws, Charles I's policies met with little success, as it was almost impossible to round up Gypsies because of corruption and their nomadic lifestyle.<sup>30</sup>

By the 1550s, Spain had had anti-Gypsy legislation for half a century, yet the state had not been able to successfully control or remove them. The Castilian Cortes, or parliament, now took up the issue, continually complaining about the Gypsies and suggesting more action. Under the Cortes' pressure, the next ruler, Philip II, son of Charles I and widower of Mary Tudor of England, renewed and sharpened the previous anti-Gypsy legislation, as his predecessor had done.<sup>31</sup> Philip II continued to focus on using Gypsies to man the galleys, but made his laws even more coercive and restrictive.

In 1559, Philip II reissued all of the previous anti-Gypsy laws and extended them to any women who dressed in Gypsy fashion. In 1575, he modified Charles I's laws of 1539 and 1552, decreeing that all able-bodied Gypsy men serve in the galleys, regardless of their age or whether they were nomadic or settled. To avoid a failure similar to his father's, he called for a nationwide Gypsy-hunt. Although it was erratically conducted, many Gypsies were rounded up, including some who were non-nomadic. Gypsies with sedentary occupations were given a token salary, while the itinerant ones were forced into the *chusma* without pay.<sup>32</sup>

Despite his success in capturing Gypsies for the galleys, Philip II's laws were otherwise ineffective. He therefore tried again, keeping with the same general policies but adding new restrictions. In 1586, Philip II stated, as he had in 1559, that all old edicts should be observed. He also added that Gypsies could not continue their thievery and cheating, that Gypsies could not sell any goods without an approval bearing a notary public signature saying that they had a settled residence, and that without such forms, all goods they sold would be considered stolen property.<sup>33</sup>

As before, these measures met with limited success, and the Castilian Cortes was not satisfied. Two of its members wrote a report that condemned Gypsies and recommended further actions against them. They suggested that Gypsy men and women be separated and forced to marry non-Gypsy peasants, and that their children be raised in orphanages until the age of ten. After that, girls would provide domestic service, while boys became apprentices. This report was of great significance: not because Philip II implemented its suggestions—he had them shelved—but because they provided a basis for later laws that would emphasize forced assimilation through the breaking up of Gypsy families.<sup>34</sup>

The seventeenth century in Spain saw a dramatic increase in popular support for anti-Gypsy legislation. This was the result of a series of published works in the 1600s, mostly diatribes against Gypsies written by priests, legal luminaries, and theologians. These recounted all of the previous rumors and accusations, as well as ones that were significantly more sensationalized. Common complaints included child-stealing, heresy, licentiousness, theft, and treason. The works also contained numerous solutions for the Gypsy problem. The most common suggestion was strictly enforced expulsion of all Gypsies in Spain, a policy over which galley service had been preferred since Charles I in 1539.<sup>35</sup>

Philip II's successor, Philip III, and the Castilian Cortes did not adopt this policy of expulsion, however. They continued the effort to force Gypsies into the galleys, following the policies of Charles I and Philip II. In 1609, all adult males were ordered to serve for six years in the galleys, and this time not even settled Gypsies were offered pay for their service. The only exception to the required service was for men who were engaged in agriculture.<sup>36</sup> The continued use of the galleys to isolate the Gypsies represented the continued uncertainty about whether Gypsies should be forced to assimilate or be excluded from Spanish society.

Philip III's most notable anti-Gypsy legislation was enacted in 1619. In this law he did follow the diatribes' lead and modified his policy's coercive element to be the threat of expulsion, return-

ing to the punishment in Ferdinand and Isabella's law enacted in 1499. Also like Ferdinand and Isabella, Philip III stressed Gypsies' assimilation into Spanish society, reversing the policy of separation through forced galley service. In adding more details about the assimilation, he attacked traditional Gypsy custom much more strongly than Ferdinand and Isabella had done. He said that Gypsies were a "collection of vicious people drawn from the dregs of Spanish society" and ordered that Gypsies conform to the rules put forth by his predecessors, settle in cities of over one thousand families, have nothing to do with cattle, and give up their Gypsy names, dress, and language. If the Gypsies conformed and abided by his rules, then they would be spared, but otherwise they would be expelled from Castile with the threat of death upon their return.<sup>37</sup>

The laws under Philip III reflected a stronger desire than ever to eliminate the Gypsy way of life from Spain. This legislation, said Philip III, was "in order that, forasmuch as they are not such by nations, this name and manner of life may be for evermore confounded and forgotten."<sup>38</sup> This quote suggests the next development in anti-Gypsy legislation: that Gypsies perhaps were not their own race or nation, thus making assimilation rather than exclusion the obvious goal. This new element appeared under the next Spanish ruler, Philip IV. His legislation originally treated Gypsies as Spaniards, not as a separate people, representing a significant change in the conceptual view of Gypsies. Although in a later law he rescinded this approach, it would be very influential under Charles III in the late 1700s.<sup>39</sup>

Philip IV, under pressure from the Cortes and his advisors, issued a pragmatic sanction on May 8, 1633. It continued the course set by Philip III of forced assimilation, but integrated the idea that Gypsies were "arrant" Spaniards.<sup>40</sup> This law was extremely coercive and the most brutal to date. It stated "that the laws hitherto adopted since the year 1499 have been inefficient to restrain their excesses..."<sup>41</sup> Philip IV said that "those who call themselves Gitános are not so by origin or by nature but have adopted this form of life for such deleterious purposes as are now

experienced.”<sup>42</sup> Thus, because Gypsies were supposed to be merely delinquent Spaniards, he declared that “Gitano” was no longer a word. Gypsy dress and customs were to be abandoned and their colonies to be broken up: Gypsies could not participate in dances or performances, speak Romany, live in traditional Gypsy *barrios* (town districts in which Gypsies typically congregated), marry each other, or meet with other Gypsies. The punishments for these offenses were six years in the galleys for men and flogging and banishment for women, and in addition, anyone who caught a wandering Gypsy could make him or her his slave. Although these provisions were extremely severe, the laws were not successfully implemented, as before.<sup>43</sup>

Philip IV’s law marked a change in another respect: he was the first to acknowledge the rampant corruption that hindered the execution of his predecessors’ laws. He tried to curb this corruption in the justice system by imposing heavy fines for nobles who helped Gypsies, and sending commoners who aided them to the galleys. Yet, this law was just as ineffective as other laws related to the Gypsies. When he created this law, Philip IV placed it in the hands of the same officials who were the recipients of bribery and the dispensers of aid.<sup>44</sup>

Much of the motivation behind the gradual change in goals to assimilation can be attributed to the economic situation in the 1600s. Philip IV found himself king in a time of deep economic decline, in which huge areas of land went out of cultivation, villages disappeared, and laborers found themselves poverty-stricken. Large numbers of ethnically non-Gypsy farmers were leaving their land to live as Gypsies in an attempt to avoid the economic realities of the day. To combat this trend, Philip IV issued another *pragmática* on May 8, 1633, stating that anyone who was not a Gypsy but acting as one would receive two hundred lashes and spend six years in the galleys.<sup>45</sup> Because Spain had suffered great depopulation due to economic hardships, Philip IV restricted the use of expulsion that had been theoretically revived under Philip III, deeming that Spain simply could not afford any more population losses, even if that population would be Gypsies.<sup>46</sup>

Instead of exile, Philip IV returned to the former policy of forced service in the galleys. To justify his new law, he no longer considered Gypsies Spaniards, returning to defining and alienating them as a separate race. In 1635, Philip IV issued a royal decree demanding that all unemployed Gypsy men between the ages of twenty and fifty years be sent to the galleys. In 1639, he modified this to state that all Gypsy men had to row in the galleys,<sup>47</sup> saying: "There is a great need for galley men and rowers, and everywhere there is an excess of this odious race, who are all spies, thieves, and liars."<sup>48</sup> To round up the men, Madrid's *alcaldes de casa y corte*, a royal magistrate with jurisdiction over the capital city set up a special *junta*, or council. Philip IV was forced to give this order at least twice, however, because it was not heeded.<sup>49</sup>

Under Spain's next ruler, Carlos II, better known to the English-speaking world as Charles II, Gypsy policy became even more muddled than before. He took steps both to assimilate and exclude Gypsies, making his goals somewhat unclear. In November 1692, he said that Gypsies could not live in towns with under one thousand families, have any trade other than farming, wear traditional Gypsy dress, speak Romany, live in separate quarters of towns, have anything to do with cattle without a public notary, or possess firearms. It seemed, however, that Gypsies took no heed of this law.<sup>50</sup>

On June 12, 1695, Charles II passed another edict. It reiterated that Gypsies could not live any life other than one based on farming, in which women and children were required to participate, and stated that they were banned from any other trade, especially that of the blacksmith. They also could have no contact with horses, in or out of the house, under a penalty of two months in prison. This punishment also applied to anyone lending a horse to a Gypsy. For farm work, they were allowed only a mule or other such "lesser beast." Gypsies were allowed to leave their homes only for reasons related to agriculture and only then if they had written permission; if this was not obeyed they faced six years in the galleys. As they were not allowed to travel, Gypsies were also barred from attending or selling at fairs and markets.<sup>51</sup>

It remains ambiguous in this legislation whether Charles II wanted the Gypsies to be integrated into society or whether he wanted to marginalize them. He supported assimilation through his restriction of traditional Gypsy language and dress and his requirement that they live in larger established towns. Yet many of his policies tried to separate Gypsies from Spanish society, such as denying them the right to attend fairs or have any trade other than farming.

Despite Charles II's apparent uncertainty regarding Gypsy policy, he retained one important part of Philip IV's understanding of the situation: he kept the laws against aiding Gypsies. He declared that anyone helping Gypsies would be fined six thousand ducats if a noble and sent to the galleys for ten years if a plebian. Unfortunately, like his predecessors, he did not see the futility of this law.<sup>52</sup>

Charles II attempted to add one innovation to Gypsy legislation. He expressed interest, not seen before him, in determining the number of Gypsies and their status. He ordered a census to be taken of all Gypsies and their occupations, weapons, and livestock. It is uncertain, however, whether this census was actually taken because no record survives.<sup>53</sup>

When Charles II's reign ended, Spain found itself with a Gypsy population that had been there for over two hundred years, yet the state still did not have the upper hand. Spain had been ruled throughout this period by the Hapsburgs, but after the War of Spanish Succession ended in 1713, Philip V, grandson of Louis XIV of France and a Bourbon, came to power. After seeing the ineffectiveness of the Hapsburgs' policies toward the Gypsies, Philip V attempted a new approach, theoretically more rational but more brutal than ever before. He wanted to decrease the numbers of antisocial or delinquent groups, if not integrating them into society then at least making the groups more useful to Spain. He used this end to justify incredibly cruel and repressive measures, including a 1705 edict that allowed ministers of justice to treat Gypsies as public enemies and fire at them at any sign of resistance to punishment. Also in 1705, the council of Madrid

published a schedule for the apprehension and punishment of the Gypsies, in which their description of the situation made it sound as though the country was so overrun with Gypsies that there was no peace or safety for any of the Spanish people.<sup>54</sup>

In 1717, Philip V added to his laws of 1705, issuing a *pragmatica* that confirmed previous legislation but still contained evidence that Spain was not yet ready to fully devote itself to Gypsy assimilation. Gypsies were excluded from many areas throughout Spain, and indeed, their approved places of residence were limited to forty-one specific towns across the country. On October 1, 1726, another law was passed, saying that Gypsies could not file any complaints against inferior justices being heard in higher tribunals or leave their homes except in urgent cases. Gypsy women were also banished from Madrid, and in fact, all Gypsy women were forbidden to enter any town where there were royal audiences because it was customary for women to flock to royal gatherings to perform, peddle goods, and tell fortunes. Philip V authorized, with the same law, the hunting down of Gypsies with firepower or sword, and even chasing Gypsies from churches to which they had fled for protection.<sup>55</sup> Despite the Bourbon attempt to produce more effective anti-Gypsy laws, this law was no more successful than any before it. Historian George Borrow writes:

This law was attended with the same success as the others; the Gitáanos left their places of domicile whenever they thought proper, frequented various fairs, and played off their jockey tricks as usual, or traversed the country in armed gangs, plundering the small villages, and assaulting travelers.<sup>56</sup>

The middle of the eighteenth century brought a major change to anti-Gypsy law. While the galleys since 1530 had been used as a form of punishment, in 1748 naval technological improvements made the galleys obsolete. Thus, Spain had to find a form of punishment to replace the one that had been preferred since Charles I in 1539. This would have been a logical time to make the laws point decisively toward either elimination of the Gypsies or their integration into society, but Ferdinand VI, the next ruler, instead continued to use Gypsies as a labor force—within Spain but outside of society. Now Ferdinand VI demanded

that Gypsies be sent into forced labor in numerous areas as chosen by the government, mostly spinning for women, factories for boys, and mines and shipyards for men.<sup>57</sup>

In 1749, a raid occurred reminiscent of Philip II's 1575 Gypsy-hunt. Like Philip II's, Ferdinand's raid was somewhat successful. In just one night an estimated six to twelve thousand Gypsy men were rounded up. The raid was recommended by Reverend Gaspar Vázquez Tablada, Bishop of Oviedo and governor of the Council of Castile, and supported by armed forces. Most of the men ended up in naval arsenals converted to penal establishments where they performed heavy labor. Ferdinand VI did, however, recognize that some Gypsies might be "good" people, and if they could substantiate claims to a family and honest work, they were allowed to return home.<sup>58</sup>

Ferdinand VI also continued his father's 1705 *pragmática* but designated thirty-four more towns as acceptable places of residence for Gypsies. His hope, with this modification, was to disperse Gypsy families. With seventy-five towns that Gypsies could live in, he calculated that there would be approximately one per one hundred people. This demonstrated some interest in assimilating the Gypsies.<sup>59</sup>

The small shifts in Gypsy policy finally culminated under Spain's next ruler, Ferdinand VI's successor and half-brother, Carlos Tercero or Charles III. He was the monarch who would finally create the law that had been eluding rulers for almost three hundred years, and in doing so he would begin to tackle the Gypsy problem. He had a reputation for tolerance, and this attitude seems to have come through in his Gypsy legislation. His first act in regard to the Gypsies marked change: in 1763, he attempted to set free the men held from the 1749 raid. He was strongly opposed by his advisors for two years, but in 1765 he succeeded in releasing the Gypsies.<sup>60</sup>

This was a minor step, however, compared to his law that would be passed in 1783. It was largely the product of a report written in 1772 by Pedro Valiente and Pedro Rodriguez. The report provided the basis for future legislation and pointed out

that while the previous laws' trend had been toward assimilation, the national sentiment remained overwhelmingly against Gypsy assimilation. Valiente and Rodriguez suggested that, like under Philip IV, the word "Gitano" be prohibited and "New Castilian" used instead. They also thought that Gypsies should be able to have any trade and should have access to a good education. Looking at past legislation, the two showed that its penal attempts had been ineffective. Charles III gave a mixed reception to their proposals, but in the end he incorporated many of their ideas into his next law.<sup>61</sup>

This new law, passed on September 19, 1783, was a product of the Enlightenment's thought: Charles III's hope was to make the Gypsies more useful to Spain by integrating them and offering them unprecedented opportunities. The law's framers saw that the previous three hundred years of legislation had been largely futile, and they set out to fix its problems.<sup>62</sup> The statute was addressed to the Gypsies and tried to convince them that it was in their best interest to give up their traditional ways, though there were also many restrictions to help convince them: Gypsies were still barred from their traditional trades of animal trading, sheep shearing, metal working, music, and dance; they were not to keep horses, leave their homes, or take refuge in churches; and the earlier laws against speaking Romany were confirmed.<sup>63</sup>

In addition, these laws were backed up with severe penalties, perhaps even more harsh than ever before. Any Gypsy who was caught living a nomadic lifestyle would have, upon first offense, any children younger than sixteen taken away, and upon second offense, be executed. These punishments, however, were enforced effectively only while Charles III remained on the throne until his death in 1788.<sup>64</sup>

Although it continued many of the prior policies, Charles III's law broke with most past legislation in one very significant way: it did not distinguish between a regular Spaniard and a Gypsy who had given up his traditional ways, reminiscent of Philip IV's first law. Charles III declared that Gypsies were, in fact, not a tainted race,<sup>65</sup> saying: "they are not...nor do they come from, any infected stock whatever."<sup>66</sup>

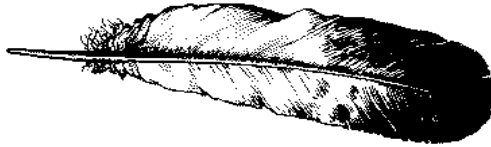
Despite its strict requirements and penalties, this law provided Gypsies with unprecedented opportunities. They were allowed occupations in any non-Gypsy trade they wished, though they could not work in Madrid or any royal residences. Gradually, this new law led to an increase in the settled Gypsy population and marked the end of a major emphasis on anti-Gypsy legislation.<sup>67</sup> In 1841, George Borrow wrote:

We should not have said thus much of Carlos Tercero...if a law passed during his reign did not connect him intimately with the history of Gitános, whose condition to a certain extent it has already altered, over whose future destinies there can be no doubt that it will exert considerable influence.<sup>68, 69</sup>

The law's framers were also realistic about the Spanish justice system, realizing that Gypsies had always found ways to avoid the laws' enforcement. Therefore, the writers provided means to avoid reliance on *corregidores*, chief royal agents in cities who presided over city council meetings and acted as appeals judges, and *alguazils*, municipal constables or sheriffs, who could hamper the law's enforcement.<sup>70</sup> Thus, Charles III insured that unlike those before him, his law would truly have an effect on the Gypsies in Spain.

Gypsy legislation in Spain is a curious subject; in a span of only three hundred years there were huge variances in what rulers wanted to do with the Gypsies and also how they went about it. Indeed, many of the policy changes did not even represent a slow shifting as time progressed, but were large, often erratic changes in goals and methods as different rulers ascended to the Spanish throne and attempted to make their laws more successful than those of their predecessors. Finally, though, Charles III was able to create a law that began the slow process of minimizing the conflict between Gypsies and the state, its rulers, and its people. Yet, the period in Spain from the fifteenth to the eighteenth centuries is only a minute slice of Gypsy history. Experiences like those in Spain at this time were commonplace across Europe. Gypsy persecution also was far from over by the end of the eighteenth century. Of course the most infamous episode of killing Gypsies in

large numbers would not occur until under the Nazis in the twentieth century,<sup>71</sup> but Gypsies found enemies before and after that episode, with stigma and persecution still existing today. It should be noted, however, that Spain and the Gypsies have not always been at odds. Despite the laws against them and their lifestyle, Gypsies have made a significant contribution to Spanish culture, especially in their song and dance, and Spanish Gypsies today are some of Europe's most integrated and free people.<sup>72</sup>



## Notes

<sup>1</sup> Bertha Quintana, Qué Gitáno!: Gypsies of Southern Spain (New York: Holt, Rinehart, and Winston, Inc., 1972) p. 13; Teofilo Ruiz, Spanish Society, 1400-1600 (Harrow, England: Pearson Education Limited, 2001) p. 114; Donald Kenrick, The Destiny of Europe's Gypsies (New York: Basic Books, Inc., 1972) p. 42; Ian Hancock, The Pariah Syndrome (Ann Arbor, MI: Karoma Publishers, Inc., 1987) p. 53

<sup>2</sup> Quintana, Gitáno, p. 20

<sup>3</sup> Angus Fraser, The Gypsies (Cambridge, Massachusetts: Basil Blackwell Inc., 1992) p. 160

<sup>4</sup> The study of Spanish anti-Gypsy legislation has been a much overlooked subject, at least in the English language. There are very few historians who address this topic, and I have found none who have presented any extended analysis of the entire period from Ferdinand and Isabella to Charles III.

<sup>5</sup> Kenrick, Destiny, p. 13; Quintana, Gitáno, pp. 14-15; David Vassberg, The Village and the Outside World in Golden Age Castile (Cambridge, United Kingdom: Cambridge University Press, 1996) p. 143

<sup>6</sup> Jean-Paul Clebert, The Gypsies (New York: E.P. Dutton & Co., Inc., 1963) pp. 23-24

<sup>7</sup> *Ibid.*, pp. 28, 82; Allen Josephs, White Wall of Spain (Ames, Iowa: The Iowa State University Press, 1983) p. 28

<sup>8</sup> Quintana, Gitáno, p. 16

<sup>9</sup> Vassberg, Castile, p. 143; Charles Chapman, A History of Spain (New York: The MacMillan Company, 1918) p. 275; Quintana, Gitáno, p. 17; Fraser, Gypsies, p. 205

<sup>10</sup> While 1447 is the date recognized by most historians, Angus Fraser states that a safe-conduct dating from January 12, 1425, was the first document relating to Gypsies in Spain. It was granted to a Gypsy calling himself "Don Johan de Egipte Menor" by Alfonso V of Aragon in Saragossa, valid for three months. Alfonso "the Magnanimous" issued a second safe-conduct that year to another Gypsy, Count Thomas of Little Egypt. The conflicting dates can perhaps be attributed to the distinction between Gypsies living their lives within certain Spanish regions as opposed to simply passing through the areas.

<sup>11</sup> Quintana, Gitáno, p. 14; Fraser, Gypsies, p. 97

<sup>12</sup> Quintana, Gitáno, pp. 15-16, Josephs, White Wall, p. 85; Fraser, Gypsies, p. 98

- <sup>13</sup> Quintana, Gitáno, p. 17; Fraser, Gypsies, p. 205; Vassberg, Castile, pp. 143, 245; Antonio Dominguez, The Golden Age of Spain (New York: Basic Books Inc. Publishers, 1971) p. 165; Chapman, Spain, p. 276
- <sup>14</sup> Vassberg, Castile, p. 144
- <sup>15</sup> Chapman, Spain, p. 276
- <sup>16</sup> Vassberg, Castile, p. 144
- <sup>17</sup> Henry Kamen, Spain in the Later Seventeenth Century (London: Longman Group Limited, 1980) p. 282; Quintana, Gitáno, pp. 19-20; Vassberg, Castile, p. 144
- <sup>18</sup> Quintana, Gitáno, pp. 16, 20; Fraser, Gypsies, p. 97
- <sup>19</sup> George Borrow, The Zincali: An Account of the Gypsies of Spain (London: Hazell, Watson & Viney, Ltd., 1923) p. 152
- <sup>20</sup> *Ibid.*, p. 153
- <sup>21</sup> Kamen, Seventeenth Century, p. 282; Quintana, Gitáno, p. 21
- <sup>22</sup> Jean Hippolyte Mariejol, The Spain of Ferdinand and Isabella (New Brunswick, New Jersey: Rutgers University Press, 1961) pp. xii, 15; Fraser, Gypsies, p. 98
- <sup>23</sup> Fraser, Gypsies, p. 98
- <sup>24</sup> Quintana, Gitáno, p. 19; Chapman, Spain, p. 276; Fraser, Gypsies, p. 98; Borrow, Zincali, p. 155
- <sup>25</sup> Vassberg, Castile, p. 143; Chapman, Spain, p. 276
- <sup>26</sup> Rafael Altamira, A History of Spain, (Princeton, New Jersey: D. Van Nostrand Company, Inc., 1949) p. 340
- <sup>27</sup> Hancock, Pariah, p. 54
- <sup>28</sup> *Ibid.*, pp. 53-54
- <sup>29</sup> The first law to extend galley service to any type of legal offender was issued in 1530.
- <sup>30</sup> Vassberg, Castile, p. 144; Ruth Pike, Penal Servitude in Early Modern Spain, (Madison, Wisconsin: The University of Wisconsin Press, 1983) p. 6; Borrow, Zincali, p. 156; Quintana, Gitáno, p. 19; Ruiz, Spanish Society, p. 108; Fraser, Gypsies, p. 99
- <sup>31</sup> Fraser, Gypsies, p. 160
- <sup>32</sup> *Ibid.*, p. 160; Pike, Penal Servitude, p. 6; Vassberg, Castile, p. 144
- <sup>33</sup> Borrow, Zincali, p. 156
- <sup>34</sup> Fraser, Gypsies, p. 160; Kenrick, Destiny, p. 50
- <sup>35</sup> Fraser, Gypsies, pp. 99, 160
- <sup>36</sup> Vassberg, Castile, p. 144
- <sup>37</sup> Kamen, Seventeenth Century, p. 282; Quintana, Gitáno, p. 19; Fraser, Gypsies, pp. 156-157, 161

- <sup>38</sup> Fraser, Gypsies, p. 157
- <sup>39</sup> *Ibid.*, p. 161
- <sup>40</sup> Kamen, Seventeenth Century, p. 282; Fraser, Gypsies, pp. 161-162
- <sup>41</sup> Borrow, Zincali, p. 158
- <sup>42</sup> Fraser, Gypsies, p. 161
- <sup>43</sup> Quintana, Gitano, pp. 19-20; Kamen, Seventeenth Century, p. 282; Kenrick, Destiny, p. 50; Fraser, Gypsies, pp. 161-162
- <sup>44</sup> Quintana, Gitano, p. 21; Borrow, Zincali, p. 153
- <sup>45</sup> Trevor Davies, Spain in Decline: 1621-1700 (London: MacMillan & Co. Ltd., 1965) p. 98
- <sup>46</sup> Vassberg, Castile, p. 145; Fraser, Gypsies, p. 161
- <sup>47</sup> Vassberg, Castile, p. 144
- <sup>48</sup> Ruth Mackay, The Limits of Royal Authority (Cambridge, United Kingdom: Cambridge University Press, 1999) p. 139
- <sup>49</sup> *Ibid.*, pp. 139, 179
- <sup>50</sup> Borrow, Zincali, p. 160
- <sup>51</sup> *Ibid.*, pp. 160-161; Fraser, Gypsies, p. 163
- <sup>52</sup> Quintana, Gitano, p. 21; Fraser, Gypsies, p. 163
- <sup>53</sup> Fraser, Gypsies, p. 163; Kamen, Seventeenth Century, p. 282
- <sup>54</sup> Antonio Dominguez Ortiz, The Golden Age of Spain 1516-1659 (New York: Basic Books Inc. Publishers, 1971) p. 166; Borrow, Zincali, p. 162; Fraser, Gypsies, p. 163
- <sup>55</sup> Fraser, Gypsies, p. 163; Borrow, Zincali, p. 163
- <sup>56</sup> Borrow, Zincali, p. 163
- <sup>57</sup> Fraser, Gypsies, pp. 164-165; Pike, Penal Servitude, p. 6
- <sup>58</sup> Fraser, Gypsies, pp. 164-165
- <sup>59</sup> *Ibid.*, p. 164
- <sup>60</sup> Borrow, Zincali, pp. 165-166; Altamira, Spain, p. 462; Fraser, Gypsies, p. 165
- <sup>61</sup> Fraser, Gypsies, pp. 165-166
- <sup>62</sup> Borrow, Zincali, pp. 168-169; Fraser, Gypsies, p. 166
- <sup>63</sup> Vassberg, Castile, p. 143; Quintana, Gitano, p. 20; Kenrick, Destiny, p. 50
- <sup>64</sup> Fraser, Gypsies, pp. 166-167; Borrow, Zincali, p. 166
- <sup>65</sup> Chapman, Spain, p. 414
- <sup>66</sup> Altamira, Spain, p. 462
- <sup>67</sup> Borrow, Zincali, p. 170; Fraser, Gypsies, p. 166; Quintana, Gitano, p. 22
- <sup>68</sup> Borrow, Zincali, p. 168

<sup>69</sup> Borrow is also, however, skeptical of Charles III's active role in this very important legislation. He questions whether Charles had any more to do with the law than its signing, saying: "there is damning evidence to prove that in many respects he was a mere Nimrod, and it is not probable that such a character would occupy his thoughts much with plans for the welfare of his people, especially such a class as the Gitános..."

<sup>70</sup> Mackay, Royal Authority, pp. 178-179; Borrow, Zincali, p. 169

<sup>71</sup> Hancock, Pariah, p. 53; Isabel Fonseca, Bury Me Standing (New York: Vintage Books, 1995) pp. 241-277

<sup>72</sup> Clebert, Gypsies, p. 203

### Bibliography

Altamira, Rafael, A History of Spain: From the Beginnings to the Present Day Princeton, New Jersey: D. Van Nostrand Company, Inc., 1949

Borrow, George, The Zincali: An Account of the Gypsies of Spain London: Hazell, Watson & Viney, Ltd., 1923

Chapman, Charles E., A History of Spain New York: The MacMillan Company, 1918

Clebert, Jean-Paul, The Gypsies New York: E.P. Dutton & Co., Inc., 1963

Davies, R. Trevor, Spain in Decline: 1621-1700 London: MacMillan & Co. Ltd., 1965

Fonseca, Isabel, Bury Me Standing: The Gypsies and Their Journey New York: Vintage Books, 1995

Fraser, Angus, The Gypsies Cambridge, Massachusetts: Basil Blackwell Inc., 1992

Hancock, Ian, The Pariah Syndrome: An account of Gypsy slavery and persecution Ann Arbor, Michigan: Karoma Publishers, Inc., 1987

Josephs, Allen, White Wall of Spain: The Mysteries of Andalusian Culture Ames, Iowa: The Iowa State University Press, 1983

Kamen, Henry, Spain in the Later Seventeenth Century, 1665-1700 London: Longman Group Limited, 1980

Kenrick, Donald, and Grattan Puxon, The Destiny of Europe's Gypsies New York: Basic Books, Inc., 1972

Mackay, Ruth, The Limits of Royal Authority: Resistance and Obedience in Seventeenth-Century Castile Cambridge, United Kingdom: Cambridge University Press, 1999

Mariéjol, Jean Hippolyte, The Spain of Ferdinand and Isabella New Brunswick, New Jersey: Rutgers University Press, 1961

Ortiz, Antonia Dominguez, The Golden Age of Spain 1516-1659 New York: Basic Books, Inc. Publishers, 1971

Pike, Ruth, Penal Servitude in Early Modern Spain Madison, Wisconsin: The University of Wisconsin Press, 1983

Quintana, Bertha B., and Lois Gray Floyd. Qué Gitáno!: Gypsies of Southern Spain New York: Holt, Rinehart, and Winston, Inc., 1972

Ruiz, Teofilo F., Spanish Society, 1400-1600 Harlow, England: Pearson, Education Limited, 2001

Vassberg, David E., The Village and the Outside World in Golden Age Castile: Mobility and migration in everyday rural life Cambridge, United Kingdom: Cambridge University Press, 1996

#### Other Sources:

Highfield, Roger, ed., Spain in the Fifteenth Century, 1369-1516: Essays and Extracts by Historians of Spain London: The MacMillan Press Ltd., 1972

Liegeois, Jean-Pierre, "The Cave-Dwellers of Andalusia," 50 Journal of the Gypsy Lore Society (1971) pp. 3-19

Mangen, S.P., Spanish Society after Franco: Regime Transition and the Welfare State New York: Palgrave, 2001

Walker, Virginia, "Gypsies, Grottoes, and Granada: Notes on The Canyon of the 'Black Men,'" 49 Journal of the Gypsy Lore Society (1970) pp. 45-50