United Nations A/HRC/WG.6/21/ESP/2

General Assembly

Distr.: General
11 November 2014
English
Original: English/Spanish

Human Rights Council
Working Group on the Universal Periodic Review
Twenty-first session
19–30 January 2015

Compilation prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21

Spain

The present report is a compilation of the information contained in reports of the treaty bodies and special procedures, including observations and comments by the State concerned, in reports of the United Nations High Commissioner for Human Rights, and in other relevant official United Nations documents. It is presented in a summarized manner owing to word-limit constraints. For the full texts, please refer to the documents referenced. The report does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights other than those contained in public reports and statements issued by the Office. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the periodicity of the review, and developments during that period.

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I. Background and framework

A. Scope of international obligations[1]

International human rights treaties[2]

	Status during previous cycle	*Action after review*	*Not ratified/not accepted*
Ratification, accession or succession	ICERD (1968) ICESCR (1977) ICCPR (1977) ICCPR-OP 2 (1991) CEDAW (1984) CAT (1987) OP-CAT (2006) CRC (1990) OP-CRC-AC (2002) OP-CRC-SC (2001) CRPD (2007) ICPPED (2009)		ICRMW
Reservations and/or declarations	ICCPR-OP 1 (declaration: art. 5, para. 2, 1985) CEDAW (general declaration, 1984) CRC (declarations: art. 21 (d) and art. 38, paras. 2 and 3, 1990)		
Complaints procedures, inquiries and urgent action[3]	ICERD, art. 14 (1998) ICCPR, art. 41 (1998) ICCPR-OP 1 (1985) OP-CEDAW, art. 8 (2001) CAT, arts. 20, 21 and 22 (1987) OP-CRPD, art. 6 (2007)	OP-ICESCR (2010) OP-CRC-IC, art. 13 (2013) ICPPED, arts. 31 and 32 (2011)	OP-ICESCR, arts. 10 and 11 OP-CRC-IC, art. 12 ICRMW

Other main relevant international instruments[4]

	Status during previous cycle	*Action after review*	*Not ratified*
Ratification, accession or succession	Convention on the Prevention and Punishment of the Crime of Genocide Rome Statute of the International Criminal Court Palermo Protocol[5] 1951 Convention relating to the Status of Refugees and its 1967 Protocol 1954 Convention relating to the Status of Stateless Persons Geneva Conventions of 12 August 1949 and Additional Protocols I and II[6] ILO fundamental conventions[7] ILO Convention No. 169[8] UNESCO Convention against Discrimination in Education (acceptance)	Additional Protocol III to the 1949 Geneva Conventions[9]	1961 Convention on the Reduction of Statelessness ILO Convention No. 189[10]

1. Several treaty bodies[11] and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance[12] recommended that Spain ratify ICRMW.

2. The United Nations High Commissioner for Refugees (UNHCR)[13] and the Special Rapporteur on racism[14] recommended that the Government accede to the 1961 Convention on the Reduction of Statelessness.

B. Constitutional and legislative framework

3. In 2014, the Working Group on Enforced or Involuntary Disappearances recommended ensuring that the judiciary, and particularly the Constitutional Court and Supreme Court, make consistent use of the Universal Declaration of Human Rights and other international instruments.[15]

4. In 2012, the Committee on Economic, Social and Cultural Rights (CESCR) expressed its concern that economic, social and cultural rights were considered by Spain only as "guiding principles", and urged Spain to ensure that those rights enjoyed the same level of protection as civil and political rights.[16]

5. In 2010, the Committee on the Rights of the Child (CRC) recommended that legislation and regulations in all autonomous communities conform to the Convention and its Optional Protocols.[17]

6. In 2013, the Special Rapporteur on racism recommended that the Constitution explicitly guarantee to non-citizens the right to equality before the law. He also recommended improving the anti-discrimination legislation through the adoption of comprehensive legislation on racism, racial discrimination, xenophobia and related intolerance.[18]

C. Institutional and human rights infrastructure and policy measures

Status of national human rights institutions[19]

National human rights institution	*Status during previous cycle*	*Status during present cycle*[20]
Defensor del Pueblo	A (2007)	A (2012)

7. The Special Rapporteur on racism recommended strong cooperation between the National and Regional Ombudspersons. He also called upon the Ombudspersons to work closely with non-governmental organizations and civil society.[21]

8. In 2013, the Committee on Enforced Disappearances (CED) recommended that the Office of the Ombudsman (Defensor del Pueblo) be given sufficient resources to perform its role as the mechanism for the prevention of torture.[22]

9. The Working Group on disappearances advised the Government to create a State body with full institutional support to deal with matters relating to enforced disappearance, including the creation of a central database on disappearances.[23] It also recommended the adoption, as soon as possible, of a national plan to search for disappeared persons.[24]

10. In 2014, the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence called on the Government to show a firm commitment to fully implement, as a matter of priority, the rights to truth, justice, reparation and guarantees of non-recurrence. He insisted that the shortage of resources, though they might curtail the State's capacities, could not justify inaction with respect to such measures.[25]

II. Cooperation with human rights mechanisms

11. Spain submitted a report regarding the follow-up to the recommendations put forward during the universal periodic review held in 2010.[26]

A. Cooperation with treaty bodies[27]

1. Reporting status

Treaty body	*Concluding observations included in previous review*	*Latest report submitted since previous review*	*Latest concluding observations*	*Reporting status*
CERD	March 2004	2014	March 2011	Twenty-first to twenty-third reports overdue since January 2014
CESCR	May 2004	2009	May 2012	Sixth report due in 2017
HR Committee	October 2008	2012	--	Sixth report pending consideration in 2015
CEDAW	July 2009	2013	--	Combined seventh and eighth report pending consideration in 2015
CAT	November 2009	2013	--	Sixth report pending consideration
CRC	June 2002	2008	October 2010	Combined fifth and sixth reports due in 2015
CRPD	--	2010	September 2011	Second and third reports due in 2018
CED	--	2012	November 2013	Next report due in 2019

2. Responses to specific follow-up requests by treaty bodies

Concluding observations

Treaty body	*Due in*	*Subject matter*	*Submitted in*
CERD	2012	Independence of the Council for the Promotion of Equal Treatment of All Persons without Discrimination on Grounds of Racial or Ethnic Origin; racist stereotypes and prejudice; repatriation of unaccompanied minors.[28]	2013.[29] More information requested.[30]
HR Committee	2009	Adoption of a national mechanism for the prevention of torture; pretrial detention; and rights of foreigners.[31]	2009,[32] 2010,[33] and 2011.[34] Further information requested.[35]
CEDAW	2011	Trafficking in women and children; unwanted pregnancies.[36]	2011.[37] Additional information requested.[38]
CAT	2010	Safeguards against arbitrary detention; incommunicado detention; conditions in the centres for minors; data on torture and abuse; migrant women victims of gender violence.[39]	2011[40] and 2012.[41] Further information requested.[42]
CED	2014	Investigation of all disappearances; safeguards against arbitrary detention; the search for and clarification of the fate of disappeared persons.[43]	--

Views

Treaty body	*Number of views*	*Status*
HR Committee	2[44]	Follow-up dialogue ongoing.[45]
CAT	2[46]	Information requested.
CEDAW	1[47]	Information requested.

B. Cooperation with special procedures[48]

	Status during previous cycle	*Current status*
Standing invitation	Yes	Yes
Visits undertaken	Terrorism Adequate housing Torture Migrants	Racism (2013) Promotion of truth (2014) Disappearances (2013)
Visits agreed to in principle	Freedom of expression	Independence of judges and lawyers Discrimination against women Arbitrary detention Trafficking
Visits requested	Migrants Minority issues	
Responses to letters of allegation and urgent appeals	During the period under review 17 communications were sent. The Government replied to 16 of them.	

C. Cooperation with the Office of the United Nations High Commissioner for Human Rights

12. Spain contributed financially to OHCHR in 2010, 2011, 2012 and 2013, including contributions to the United Nations Voluntary Fund for Victims of Torture, the United Nations Voluntary Fund for Indigenous Populations and the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery.[49]

III. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Equality and non-discrimination

13. The Special Rapporteur on racism recommended that Spain ensure that racial motivations were harmonized throughout the Penal Code in conformity with article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination.[50]

14. In 2011, the Committee on the Elimination of Racial Discrimination (CERD) recommended that Spain collect information on acts of racial discrimination from police, judicial and prison authorities and immigration services.[51]

15. The Committee on Economic, Social and Cultural Rights welcomed the adoption of the National Strategy for the Social Inclusion of the Gypsy Population 2012–2020.[52] The Committee on the Elimination of Racial Discrimination expressed its concern at the persistent discrimination against the Gypsy community in daily life and recommended that Spain improve the situation of Gypsies and integration into Spanish society.[53] The Committee on Economic, Social and Cultural Rights expressed similar concerns.[54]

16. CESCR was concerned that immigrants suffered from discrimination, and recommended that Spain increase measures to eradicate discrimination against the immigrant population.[55] CERD was concerned by ongoing media coverage spreading racist stereotypes and prejudice against certain groups of migrants.[56]

17. In 2011, the Committee on the Rights of Persons with Disabilities (CRPD) expressed concern that persons with disabilities would continue to be marginalized. It urged Spain to expand the protection of discrimination on the grounds of disability and to ensure protection from denial of reasonable accommodation, as a form of discrimination, regardless of the level of disability.[57]

B. Right to life, liberty and security of the person

18. In 2013, CED considered that the country's legislation to prevent and punish enforced disappearances was not in full compliance with ICPPED.[58] The Committee recommended the adoption of legislative measures to make enforced disappearance a separate offence.[59]

19. CED noted with concern the Spanish regime of incommunicado detention, which might last for 13 days in cases involving terrorism or armed gangs, and during which accused persons did not have the right, inter alia, to appoint a lawyer of their own choosing, to speak in private with their assigned counsel or to inform a person of their own choosing of their detention or of their place of detention.[60] In 2011, the Committee against Torture (CAT) noted with regret that the system of incommunicado detention had not been

reviewed with a view to its abolition, and remained disappointed to learn that incommunicado detainees were not afforded the basic legal safeguards.[61]

20. In 2011, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism noted the existence of regulations, safeguards and administrative measures to ensure that incommunicado detention is applied only in exceptional cases and that detainees' fundamental rights are respected. Nevertheless, the Special Rapporteur also stated that there was evidence that these mechanisms were not applied consistently.[62] The Government submitted a reply in June 2012.[63] In 2012, the Special Rapporteur on the question of torture once again urged the Government to seriously consider abolishing the incommunicado regime or regulating it more strictly.[64] In 2013, the Human Rights Committee made a similar recommendation.[65]

21. CRPD was concerned at the reported abuse of persons with disabilities institutionalized in residential centres or psychiatric hospitals, and recommended that Spain review its laws that allowed for the deprivation of liberty on the basis of disability.[66]

22. The Special Rapporteur on racism recommended that the Government undertake measures to put an end to ethnic and racial profiling, inter alia, by amending the appropriate legislation to ensure that it included a specific prohibition of racial profiling and established clear criteria for law enforcement agents for initiating and conducting stops and identity checks.[67]

23. CESCR was concerned at high levels of domestic and other forms of gender-based violence. It recommended that Spain strengthen the measures to combat such violence, especially violence against women, and encouraged it to ensure that the restrictive austerity measures did not undermine the protection afforded to victims.[68]

24. In 2014, the Committee on the Elimination of Discrimination against Women (CEDAW) adopted a decision about a communication regarding a case of domestic violence against a woman and her daughter, which culminated with the murder of the child in 2003.[69] CEDAW noted that the author of the communication had suffered harm of the utmost seriousness and an irreparable injury as a result of the loss of her daughter and that her efforts to obtain redress had been futile. It concluded, inter alia, that the absence of reparations constituted a violation by the State of its obligations under CEDAW. The Committee recommended that Spain provide mandatory training for judges and administrative personnel on the application of the legal framework with regard to combating domestic violence, including on the definition of domestic violence and on gender stereotypes.[70]

25. CRPD was concerned that public policies on the prevention of gender-based violence did not sufficiently take into consideration the particular situation of women with disabilities. It recommended that Spain elaborate policies to combat violence against women and girls with disabilities and ensure access for women with disabilities to an integrated response system.[71]

26. Following a CAT concern about the situation of migrant women in irregular situation who are victims of gender-based violence,[72] in 2011 Spain indicated that Organization Act No. 2/2009, amending Organization Act No. 4/2000, on the rights and freedoms of aliens and their social integration, included new articles addressing gender violence and human trafficking.[73] However, CERD was concerned that article 31 bis of Organization Act No. 2/2009, regarding foreign women who were victims of gender-based violence, might dissuade foreign women in an irregular situation from filing complaints about gender-based violence for fear of being expelled if the courts did not find the accused guilty. It recommended the review of the legislative provisions in that Act.[74]

27. CRC reiterated its concern that corporal punishment, in particular in the home, was socially accepted.[75]

28. UNHCR considered that, despite legal improvements, an adequate approach and understanding of the international protection needs of some victims of trafficking was still lacking.[76] That was particularly worrying for persons claiming asylum at the border or at internment centres. UNHCR recommended that the Government ensure information was provided to and understood by trafficked persons regarding their right to apply for international protection and adopt comprehensive legislation on human trafficking, with a human rights-based and protective approach.[77]

29. In that regard, UNHCR welcomed the incorporation into the Aliens Law of article 59 bis, which applied directly to victims of trafficking in human beings; the correct typifying of the crime of human trafficking in the Criminal Code in December 2010; and the adoption in October 2011 of the Framework Protocol for the protection of trafficked persons.[78]

30. In 2012, CEDAW requested additional information on actions taken to increase international, regional and bilateral cooperation with countries of origin, transit and destination in order to prevent trafficking and to bring perpetrators to justice.[79]

C. Administration of justice, including impunity, and the rule of law

31. In 2014, the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence reiterated his concern for the successive reforms of 2009 and 2014 of Organic Act No. 6/1985, which had significantly limited the Spanish courts' chances of exercising their jurisdiction over serious international crimes.[80] He recommended that the Government ensure that Spanish justice cooperated with judicial proceedings occurring abroad and combat any weakening of the exercise of universal jurisdiction by Spanish courts.[81]

32. CED was concerned that under Spanish law it was possible to suspend the right of habeas corpus when a state of emergency or siege had been declared. It recommended that Spain establish that the right to apply for habeas corpus may be neither suspended nor restricted under any circumstances.[82]

33. CRC was concerned that legislative developments had led to tougher penalties for children committing serious criminal offences. It recommended that Spain review its legislation and ensure that juvenile justice standards were fully implemented.[83]

34. The Working Group on disappearances recommended that the Government take the necessary legislative measures to ensure that cases of enforced disappearance can be tried only by the competent ordinary courts, to the exclusion of any other special court, particularly military courts.[84] CED made a similar recommendation.[85]

35. CED invited the country to consider setting up a commission of independent experts charged with establishing the truth about past human rights violations.[86]

36. The Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence recommended that the Government consider alternatives to and annul the effects of the Amnesty Act that impeded all investigations and access to justice with respect to the serious human rights violations committed during the Civil War and the Franco regime.[87]

37. The Special Rapporteur called upon the Government to identify suitable mechanisms to give effect to the annulment of sentences handed down in violation of the fundamental principles of law and due process during the Civil War and the Franco regime.

He stressed that comparative studies of other experiences undergone by countries which have faced similar challenges, including many within the European context, might prove extremely useful.[88]

38. CED urged Spain, inter alia, to investigate all disappearances, regardless of the time they took place and even if there had been no formal complaint, and to remove any legal impediments to such investigations in domestic law, notably the interpretation given to the Amnesty Act.[89] The Working Group on disappearances called on the Government to commit more actively and urgently to establishing the fate or whereabouts of persons disappeared during the Civil War and the dictatorship. All initiatives relating to the search for disappeared persons should be undertaken as an obligation of the State and should form part of a comprehensive, consistent, continuous, cooperative and collaborative policy.[90]

39. CED was concerned that reparatory measures might not benefit all those persons who had suffered harm as the direct result of an enforced disappearance. It also noted that the compensation provided for under the Criminal Code was the responsibility of the person having committed the offence, and that the State bore only subsidiary civil liability. It pointed out that domestic legislation contained no system of comprehensive compensation for which the State was responsible. It recommended that Spain establish a definition of victim in conformity with the Convention.[91]

40. The Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence called upon the Government to rigorously assess the implementation of the Historical Memory Act and its use by victims, with a view to adapting models and measures to victim's claims, and establishing communication channels between the competent authorities, the victims and the associations.[92]

41. The Special Rapporteur urged the Government to deal with the demands of victims in terms of truth, establish some mechanism to "make truth official" and resolve the excessive fragmentation to which memory-building in Spain had been subject, as well as restore, if not increase, the resources devoted to that purpose.[93]

42. Regarding cases of removal of children that might have occurred in Spain in the past, CED had received reports concerning obstacles to both the documentation of cases and the effectiveness of investigations. It urged Spain to step up efforts to search for and identify any children who might have been the victims of removal, enforced disappearance and/or identity substitution.[94]

D. Right to marriage

43. CRC recommended that Spain increase the minimum age for marriage under exceptional circumstances and with a judge's permission to 16 years.[95]

E. Freedom of expression and right to participate in public and political life

44. The United Nations Educational, Scientific and Cultural Organization (UNESCO) recorded no killing of journalists in Spain between 2008 and 2012.[96]

45. UNESCO encouraged the Government to decriminalize defamation and place it within the civil code in accordance with international standards.[97]

46. The Special Rapporteur on racism called upon the Government to put an end to hate speech and xenophobic discourse among politicians and political leaders. That phenomenon should be tackled at all levels, including the national, regional, provincial and local levels.

Political leaders had a responsibility to strongly denounce such discourse, including when it came from within their own ranks. In particular, politicians from mainstream political parties should avoid xenophobic discourse and the scapegoating of certain groups.[98]

47. CESCR remained concerned at the smaller proportion of women in decision-making positions, both in the public and the private sectors. It recommended the promotion of equal representation of men and women in such positions.[99]

48. CRPD noted with concern the number of persons with disabilities denied their right to vote. It recommended that all persons with disabilities have the right to vote and to participate in public life.[100]

F. Right to work and to just and favourable conditions of work

49. In the context of the economic and financial crises, the Committee on Economic, Social and Cultural Rights expressed concern about the constant rise in unemployment and long-term unemployment rates, which negatively affects a large proportion of the population of the State party, especially young persons, immigrants, gypsies and persons with disabilities.[101]

50. CESCR recommended that Spain guarantee that the minimum wage enabled workers and their families to enjoy a decent standard of living and that it was periodically adjusted in line with the cost of living.[102]

51. CESCR was concerned that gender stereotypes prevented women from enjoying the right to work on equal terms with men, and that the wage gap between men and women was still large. It urged Spain to monitor compliance by private actors with the laws on equal treatment and non-discrimination and with the principle of equal pay for work of equal value.[103]

G. Right to social security and to an adequate standard of living

52. CESCR expressed concern that the protection for the rights enshrined in the Covenant had been reduced as a result of the austerity measures adopted by Spain. It recommended the protection of the core content of all Covenant rights under any circumstances.[104]

53. CESCR noted with concern that 21.8 per cent of the population was living below the poverty line, with many more at risk of poverty owing to the economic and financial crisis.[105] The Committee was also concerned that family benefits had been drastically cut or abolished.[106] It recommended that Spain ensure that the austerity measures did not negatively impinge on economic, social and cultural rights.[107]

54. CRC was concerned that many families lacked appropriate assistance and at the situation of children in families affected by the current economic crisis. It recommended that Spain strengthen the system of family benefits and child allowances.[108]

55. CESCR was concerned about individuals and families overwhelmed by housing costs after taking out long-term mortgages, which had caused many to lose their homes. It recommended amending legislation to give borrowers the possibility of surrendering their homes in settlement of their mortgage, and increasing the social housing stock.[109]

56. CESCR was concerned about forced evictions that took place without due legal safeguards. It recommended the adoption of a legal framework establishing appropriate requirements and procedures to be followed prior to an eviction.[110]

57. CESCR noted with concern that pensions were in many cases below subsistence level, and was particularly concerned about the situation of women with widows' pensions. It recommended the revision of the level of both contributory and non-contributory retirement pensions to ensure an adequate standard of living for all pensioners.[111]

H. Right to health

58. In 2012, CEDAW requested information on the availability and affordability of sexual and reproductive health services, and on measures to implement the national strategy for sex and reproductive health and to increase knowledge of and access to contraceptive methods and promotion of sex education targeted at adolescent girls and boys, with special attention to the prevention of early pregnancy, sexually transmitted diseases and HIV/AIDS.[112]

59. CRPD regretted that guardians representing persons with disabilities deemed "legally incapacitated" might consent to termination or withdrawal of medical treatment, nutrition or other life support for those persons.[113] It was likewise concerned that persons with disabilities whose legal capacity was not recognized might be subjected to sterilization without their free and informed consent.[114] CRPD urged Spain to abolish the administration of medical treatment without the full and informed consent of the patient,[115] and requested it to secure the informed consent of persons with disabilities on all matters relating to medical treatment.[116]

60. The Special Rapporteur on racism deeply regretted the amendments introduced through Royal Decree-Law No. 16/2012 which curtailed the right of undocumented migrants to access to public health services as provided in several international human rights instruments ratified by Spain. He recommended the review of the health reforms adopted in the context of the economic crisis to ensure that access to health-care services was provided to migrants regardless of their migration status.[117] CESCR had similar concerns.[118]

I. Right to education

61. CESCR noted that education had been one of the sectors most affected by cuts in the budget. It recommended that Spain guarantee a high-quality education in conditions of equality for all boys and girls.[119] It also recommended the review of the regressive measures taken regarding university tuition fees in order to guarantee equal access to higher education for all on the basis of ability.[120]

62. CRC was concerned at the very high premature school dropout rate and at the low participation of children and adolescents in schools.[121] CRC recommended that Spain ensure that children complete their schooling and that it expand vocational education and training for children who have left school without certificates.[122] UNESCO encouraged the Government to pursue its efforts to ensure the right of all children to a truly inclusive education.[123]

63. The Committee on the Elimination of Racial Discrimination expressed concern at reports that in some regions there were "ghetto" schools for migrant and Gypsy children in spite of the fact that the Organization Act on Education provides for mechanisms to facilitate an appropriate and even distribution of students. The Committee recommended that Spain take measures to effectively ensure an even distribution of pupils between schools.[124] UNESCO recommended that the Government be encouraged to take additional measures to improve access to education for children belonging to minorities and for children with immigrant backgrounds.[125]

J. Persons with disabilities

64. While congratulating Spain on the adoption of Act 26/2011 on the normative adaptation to the Convention on the Rights of Persons with Disabilities,[126] CRPD was concerned that not all persons with disabilities were covered by the law.[127] It urged Spain to ensure that all persons with disabilities enjoyed protection against discrimination and had access to equal opportunities irrespective of their level of disability.[128]

65. CRPD recommended the development of laws and policies to replace substitute decision-making by supported decision-making, which respects the person's autonomy, will and preferences.[129]

66. CRPD recommended the development of policies and programmes on education, employment, health and social protection to promote the autonomy and full participation of women and girls with disabilities in society.[130]

67. CRPD remained concerned at the low level of compliance with accessibility requirements, in particular at the regional and local levels, in the private sector, and in relation to existing facilities. It recommended that Spain promote compliance with accessibility legislation.[131]

K. Minorities

68. The Special Rapporteur on racism recommended the enhancement of the efforts carried out to combat discrimination against Roma, especially in the context of the current economic crisis, as there was still a segment of the Roma population that continued to face social exclusion, marginalization, racial discrimination, prejudice, hostility and significant challenges in the areas of education, housing, access to health and employment.[132]

L. Migrants, refugees and asylum seekers

69. CRC remained concerned at the obstacles encountered by children of foreigners in irregular situations in educational and health services.[133] The Special Rapporteur on racism recommended that the Government provide adequate funding for migrants' integration policies, and ensure that budget cuts did not have a disproportionate impact on programmes for migrants.[134]

70. UNHCR noted that the lack of an implementing decree for the Asylum Law, due in 2010, implied that relevant aspects of the Law, the detailed regulation of which had been left to the implementing decree, remained largely unregulated.[135] UNHCR recommended that the Government adopt the implementing decree for the Asylum Law, including a protection-oriented focus.[136] The Special Rapporteur on racism made a similar recommendation.[137]

71. UNHCR reported that in 2013 there had been a 70 per cent increase in asylum applications (4,513) in comparison to 2012. A total of 203 persons had been granted refugee status while 146 had been granted subsidiary protection.[138]

72. UNHCR observed, as positive developments, that there was a good reception system for asylum seekers in mainland Spain (excluding the Spanish autonomous cities of Ceuta and Melilla); that there was increased recognition of refugees who were victims of domestic violence; that international protection had been granted to a small number of victims of trafficking;[139] and that, following reiterated Supreme Court jurisprudence, decision-making under the statelessness determination procedure was resumed in 2013 after a period of years in which the majority of the claims for statelessness status had remained frozen.[140]

73. However, UNHCR considered that the access to Spain for persons in need of international protection through the heavily fenced borders of the Spanish autonomous cities of Ceuta and Melilla was a significant protection challenge. It noted that border control measures had been strongly reinforced to prevent attempts to jump the fence, mostly in Melilla, and that the so-called "hot" returns had increased, without any legal guarantees. Due to heavy overcrowding, reception conditions in the enclaves remained below minimum standards.[141] CED expressed similar concerns.[142]

74. UNHCR was particularly concerned that practices applied in the Spanish autonomous cities of Ceuta and Melilla resulted in an increasing number of persons potentially in need of international protection who did not lodge applications and that, in addition, those who did apply increasingly withdrew their asylum applications, often resulting in prompt and automatic transfers to the mainland. UNHCR recommended that the Government establish a fair and efficient asylum procedure also in Ceuta and Melilla, guaranteeing compliance with legal time frames, and ensure the transfer of persons possibly in need of international protection to the mainland without delay.[143]

75. CESCR was concerned about the situation of persons held in centres for foreigners awaiting deportation in overcrowded conditions and without access to information or adequate social, medical or legal services.[144] CRC was concerned about substandard accommodation conditions and neglect in emergency centres in the Canary Islands and Spanish exclaves, particularly Ceuta.[145]

76. The Special Rapporteur on racism urged the Government to draw up regulations for the migrant holding centres, in order to harmonize the way in which they operated and thus ensure that persons detained in such centres had access to procedural safeguards in order to challenge their detention, and ensure adequate living conditions, access to medical care and services, access to information including on the right to seek asylum, legal aid, social services and the right to communicate with the outside world, and in particular lawyers, consular authorities and family members.[146] CERD made a similar recommendation.[147]

77. The Special Rapporteur on racism recommended that any injuries suffered by migrants in migrant holding centres be documented by detailed medical reports, and that cases of mistreatment, torture or death be investigated, prosecuted and adequately sanctioned.[148]

78. The adoption of adequate age assessment procedures remained one main concern in relation to unaccompanied or separated children. International protection needs of children were generally neither identified nor considered. Durable solutions were not reached and, in most cases, such children ended up in an irregular situation once they reached full age.[149]

79. CRC was concerned about the ill-treatment of unaccompanied children by the police during forced or involuntary repatriation to the country of origin; unaccompanied children being handed over to border authorities and not to the social services of the country of origin; and about the failure to provide unaccompanied children with temporary residency status. It recommended that Spain prevent irregular procedures in the expulsion of unaccompanied children; establish child-friendly reception centres for children; and provide training on asylum matters and the specific needs of children for personnel dealing with unaccompanied children.[150]

80. In 2013, the Committee on the Elimination of Racial Discrimination expressed regret at the lack of information on the adoption of alternatives to the assessment of bone development through X-rays as a means of determining the age of unaccompanied minors.[151]

Notes

[1] Unless indicated otherwise, the status of ratification of instruments listed in the table may be found on the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, http://treaties.un.org/. Please also refer to the United Nations compilation on Spain from the previous cycle (A/HRC/WG.6/8/ESP/2).

[2] The following abbreviations have been used in the present document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
OP-ICESCR	Optional Protocol to ICESCR
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
OP-CRC-IC	Optional Protocol to CRC on a communications procedure
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to CRPD
ICPPED	International Convention for the Protection of All Persons from Enforced Disappearance

[3] Individual complaints: ICCPR-OP 1, art. 1; OP-CEDAW, art. 1; OP-CRPD, art. 1; OP-ICESCR, art. 1; OP-CRC-IC, art. 5; ICERD, art. 14; CAT, art. 22; ICRMW, art. 77; and ICPPED, art. 31. Inquiry procedure: OP-CEDAW, art. 8; CAT, art. 20; ICPPED, art. 33; OP-CRPD, art. 6; OP-ICESCR, art. 11; and OP-CRC-IC, art. 13. Inter-State complaints: ICCPR, art. 41; ICRMW, art. 76; ICPPED, art. 32; CAT, art. 21; OP-ICESCR, art. 10; and OP-CRC-IC, art. 12. Urgent action: ICPPED, art. 30.

[4] Information relating to other relevant international human rights instruments may be found in the pledges and commitments undertaken by Spain before the Human Rights Council, as contained in the note verbale dated 10 March 2010 sent by the Permanent Mission of Spain to the United Nations addressed to the President of the General Assembly (A/64/704).

[5] Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

[6] Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Geneva Convention relative to the Treatment of Prisoners of War (Third Convention); Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); and Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II). For the official status of ratifications, see International Committee of the Red Cross, at https://www.icrc.org/IHL.

[7] International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour; Convention No. 87 concerning

Freedom of Association and Protection of the Right to Organise; Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

[8] International Labour Organization Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries.

[9] Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see International Committee of the Red Cross, at https://www.icrc.org/IHL.

[10] International Labour Organization Convention No. 189 concerning Decent Work for Domestic Workers.

[11] Concluding observations of the Committee on Economic, Social and Cultural Rights (E/C.12/ESP/CO/5), para. 30; concluding observations of the Committee on the Rights of the Child (CRC/C/ESP/CO/3-4), para. 65; and concluding observations of the Committee on the Elimination of Racial Discrimination (CERD/C/ESP/CO/18-20), para. 18.

[12] A/HRC/23/56/Add.2, para. 90.

[13] UNHCR submission for the UPR of Spain, p. 8.

[14] A/HRC/23/56/Add.2, para. 90.

[15] A/HRC/27/49/Add.1, para. 67 (g).

[16] E/C.12/ESP/CO/5, para. 6.

[17] CRC/C/ESP/CO/3-4, para. 10.

[18] A/HRC/23/56/Add.2, para. 60.

[19] According to article 5 of the rules of procedure of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) Sub-Committee on Accreditation, the classifications for accreditation used by the Sub-Committee are: A: Voting Member (fully in compliance with each of the Paris Principles), B: Non-Voting Member (not fully in compliance with each of the Paris Principles or insufficient information provided to make a determination), C: No Status (not in compliance with the Paris Principles).

[20] For the list of national human rights institutions with accreditation status granted by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), see A/HRC/27/40, annex.

[21] A/HRC/23/56/Add.2, para. 63.

[22] CED/C/ESP/CO/1, para. 28. See also CCPR/C/ESP/CO/5/Add.2, para. 1 and http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/ESP/INT_CCPR_FCO_ESP_16828_S.pdf.

[23] A/HRC/27/49/Add.1, para. 67 (m).

[24] Ibid., para. 67 (o).

[25] A/HRC/27/56/Add.1, para. 104 (a).

[26] See www.ohchr.org/EN/HRBodies/UPR/Pages/UPRImplementation.aspx.

[27] The following abbreviations have been used for this document:

CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
HR Committee	Human Rights Committee
CEDAW	Committee on the Elimination of Discrimination against Women
CAT	Committee against Torture
CRC	Committee on the Rights of the Child
CRPD	Committee on the Rights of Persons with Disabilities
CED	Committee on Enforced Disappearances

[28] CERD/C/ESP/CO/18-20, para. 23.

[29] CERD/C/ESP/CO/18-20/Add.1.

[30] Letter from CERD to the Permanent Mission of Spain to the United Nations Office and other international organizations in Geneva, dated 30 August 2013, available from

http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/ESP/INT_CERD_FUL_ESP_15707_S.pdf.

[31] CCPR/C/ESP/CO/5, para. 23.

[32] CCPR/C/ESP/CO/5/Add.1.

[33] CCPR/C/ESP/CO/5/Add.2.

[34] Available from http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/ESP/INT_CCPR_FCO_ESP_16828_S.pdf.

[35] Letters from the HR Committee to the Permanent Mission of Spain to the United Nations Office and other international organizations in Geneva, dated 23 April 2010 and 9 May 2011, available from http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/ESP/INT_CCPR_FUL_ESP_11869_S.pdf and http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/ESP/INT_CCPR_FUL_ESP_11868_S.pdf.

[36] CEDAW/C/ESP/CO/6, para. 38.

[37] CEDAW/C/ESP/CO/6/Add.1.

[38] Letter from CEDAW to the Permanent Mission of Spain to the United Nations Office and other international organizations in Geneva, dated 14 March 2012, available from http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ESP/INT_CEDAW_FUL_ESP_13621_E.pdf.

[39] CAT/C/ESP/CO/5, para. 33.

[40] CAT/C/ESP/CO/5/Add.1.

[41] CAT/C/ESP/CO/5/Add.2.

[42] Letter from CAT to the Permanent Mission of Spain to the United Nations Office and other international organizations in Geneva, dated 1 December 2011, available from http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/ESP/INT_CAT_FUR_ESP_11827_E.pdf.

[43] CED/C/ESP/CO/1, para. 39.

[44] CCPR/C/97/D/1363/2005 and CCPR/C/107/D/1945/2010. See also CCPR/C/100/3.

[45] CCPR/C/100/3, p. 12.

[46] CAT/C/47/D/368/2008 and CAT/C/48/D/453/2011.

[47] CEDAW/C/58/D/47/2012.

[48] For the titles of special procedures, see www.ohchr.org/EN/HRBodies/SP/Pages/Themes.aspx and www.ohchr.org/EN/HRBodies/SP/Pages/Countries.aspx.

[49] OHCHR Report 2010, pp. 79, 83, 84, 87, 97, 101, 102, 103; OHCHR Report 2011, pp. 125, 129, 130, 136, 146, 147, 150, 153, 155, 156, 158, 159, 160, 177; OHCHR Report 2012, pp. 117, 121,123, 128, 139, 140, 142, 144, 147, 151, 152, 169; OHCHR Report 2013, pp. 131, 137, 142, 154, 156, 158, 160, 163, 165, 169, 185.

[50] A/HRC/23/56/Add.2, para. 61.

[51] CERD/C/ESP/CO/18-20, para. 11. See also A/HRC/23/56/Add.2, para. 62.

[52] E/C.12/ESP/CO/5, para. 5.

[53] CERD/C/ESP/CO/18-20, para. 16. See also E/C.12/ESP/CO/5, para. 11.

[54] E/C.12/ESP/CO/5, para. 11.

[55] Ibid.

[56] CERD/C/ESP/CO/18-20, para. 14. See also letter from CERD to the Permanent Mission of Spain to the United Nations Office and other international organizations in Geneva, dated 30 August 2013, p. 2, and CERD/C/ESP/CO/18-20/Add.1, paras. 10–21.

[57] CRPD/C/ESP/CO/1, paras. 19–20.

[58] CED/C/ESP/CO/1, para. 8.

[59] Ibid., paras. 9–10.

[60] Ibid., para. 23.

[61] Letter from CAT to the Permanent Mission of Spain to the United Nations Office and other international organizations in Geneva, dated 1 December 2011, p. 1. See also CAT/C/ESP/CO/5/Add.1, paras. 3–26; CAT/C/ESP/CO/5/Add.2, paras. 4–8; CAT/C/48/D/453/2011; and CCPR/C/107/D/1945/2010.

[62] A/HRC/20/14/Add.2, para. 53.

[63] Ibid., paras. 61–97.

[64] A/HRC/19/61/Add.3, para. 126.

[65] CCPR/C/107/D/1945/2010, para. 10. See also CCPR/C/ESP/CO/5, para. 14; CAT/C/48/D/453/2011; and CED/C/ESP/CO/1, para. 24.
[66] CRPD/C/ESP/CO/1, paras. 35–36.
[67] A/HRC/23/56/Add.2, para. 84. CERD/C/ESP/CO/18-20, para. 10.
[68] E/C.12/ESP/CO/5, para. 15.
[69] CEDAW/C/58/D/47/2012.
[70] CEDAW/C/58/D/47/2012, paras. 9.8 and 11 (b) (iii).
[71] CRPD/C/ESP/CO/1, paras. 21–22.
[72] CAT/C/ESP/CO/5, para. 25.
[73] CAT/C/ESP/CO/5/Add.1, para. 38.
[74] CERD/C/ESP/CO/18-20, para. 12.
[75] CRC/C/ESP/CO/3-4, para. 34.
[76] UNHCR submission for the UPR of Spain, p. 7.
[77] Ibid., pp. 8–9. See also E/C.12/ESP/CO/5, para. 5; letter from CEDAW to the Permanent Mission of Spain to the United Nations Office and other international organizations in Geneva, dated 14 March 2012, p. 2; and CEDAW/C/ESP/CO/6/Add.1, para. 10.
[78] UNHCR submission for the UPR of Spain, p. 3.
[79] Letter from CEDAW to the Permanent Mission of Spain to the United Nations Office and other international organizations in Geneva, dated 14 March 2012, p. 2. See also CEDAW/C/ESP/CO/6/Add.1, para. 10.
[80] A/HRC/27/56/Add.1, para. 83. See also CED/C/ESP/CO/1, paras. 13–14.
[81] A/HRC/27/56/Add.1, para. 104 (s).
[82] CED/C/ESP/CO/1, paras. 25–26.
[83] CRC/C/ESP/CO/3-4, paras. 63–64.
[84] A/HRC/27/49/Add.1, para. 67 (f).
[85] CED/C/ESP/CO/1, paras. 15–16.
[86] Ibid., para. 33.
[87] A/HRC/27/56/Add.1, para. 104 (q).
[88] Ibid., para. 104 (p).
[89] CED/C/ESP/CO/1, para. 12. See also CED/C/ESP/CO/1, para. 36.
[90] A/HRC/27/49/Add.1, para. 67 (j).
[91] CED/C/ESP/CO/1, paras. 29–30.
[92] A/HRC/27/56/Add.1, para. 104 (b).
[93] Ibid., para. 104 (g).
[94] CED/C/ESP/CO/1, paras. 34–35.
[95] CRC/C/ESP/CO/3-4, para. 24.
[96] UNESCO submission for the UPR of Spain, para. 19.
[97] Ibid., para. 27.
[98] A/HRC/23/56/Add.2, para. 86.
[99] E/C.12/ESP/CO/5, para. 13.
[100] CRPD/C/ESP/CO/1, paras. 47–48.
[101] E/C.12/ESP/CO/5, para. 12. See also CRC/C/ESP/CO/3-4, para. 15 and CRPD/C/ESP/CO/1, paras. 45–46.
[102] E/C.12/ESP/CO/5, para. 18.
[103] Ibid., para. 13.
[104] Ibid., para. 8.
[105] Ibid., para. 16. See also CRC/C/ESP/CO/3-4, para. 15.
[106] E/C.12/ESP/CO/5, para. 17.
[107] Ibid.
[108] CRC/C/ESP/CO/3-4, paras. 39–40. See also paras. 15, 52 and 53.
[109] E/C.12/ESP/CO/5, para. 21.
[110] Ibid., para. 22.
[111] Ibid., para. 20.
[112] Letter from CEDAW to the Permanent Mission of Spain to the United Nations Office and other international organizations in Geneva, dated 14 March 2012, p. 3.
[113] CRPD/C/ESP/CO/1, para. 29.

[114] Ibid., para. 37.
[115] Ibid., para. 38.
[116] Ibid., para. 30.
[117] A/HRC/23/56/Add.2, para. 72.
[118] E/C.12/ESP/CO/5, para. 19.
[119] Ibid., para. 27.
[120] Ibid., para. 28.
[121] CRC/C/ESP/CO/3-4, para. 54.
[122] Ibid., para. 55. See also E/C.12/ESP/CO/5, para. 26.
[123] UNESCO submission for the UPR of Spain, para. 26.2.
[124] CERD/C/ESP/CO/18-20, para. 15.
[125] UNESCO submission for the UPR of Spain, para. 26.3.
[126] CRPD/C/ESP/CO/1, para. 4.
[127] Ibid., para. 11.
[128] Ibid., para. 12.
[129] Ibid., para. 34.
[130] Ibid., para. 22.
[131] Ibid., paras. 27–28.
[132] A/HRC/23/56/Add.2, para. 66.
[133] CRC/C/ESP/CO/3-4, para. 25.
[134] A/HRC/23/56/Add.2, para. 71. See also UNHCR submission for the UPR of Spain, p. 7.
[135] UNHCR submission for the UPR of Spain, p. 6.
[136] Ibid.
[137] A/HRC/23/56/Add.2, para. 76.
[138] UNHCR submission for the UPR of Spain, p. 1.
[139] Ibid.
[140] Ibid., p. 3.
[141] Ibid.
[142] CED/C/ESP/CO/1, paras. 21–22.
[143] UNHCR submission for the UPR of Spain, p. 3.
[144] E/C.12/ESP/CO/5, para. 14. See also CERD/C/ESP/CO/18-20, para. 13.
[145] CRC/C/ESP/CO/3-4, para. 59.
[146] A/HRC/23/56/Add.2, para. 73. See also UNHCR submission for the UPR of Spain, p. 5.
[147] CERD/C/ESP/CO/18-20, para. 13. See also E/C.12/ESP/CO/5, para. 14 and CRC/C/ESP/CO/3-4, para. 60.
[148] A/HRC/23/56/Add.2, para. 74.
[149] UNHCR submission for the UPR of Spain, p. 7.
[150] CRC/C/ESP/CO/3-4, paras. 59–60.
[151] Letter from CERD to the Permanent Mission of Spain to the United Nations Office and other international organizations in Geneva, dated 30 August 2013, p. 2.