SPAIN
Crisis of identity
Race-related Torture and Ill-treatment by State Agents
(Summary*)

A family of Roma, including children, are humiliated and tortured in a Madrid police station, where they have been illegally detained.

Police abduct a Senegalese street vendor from a Galician beach and, instead of taking him directly to a police station, beat him up in a remote area of the city, using racist abuse.

A Moroccan child, who was trying to make his life in Melilla, was illegally abandoned by Spanish police at the frontier. That night he was seen weeping, drenched and numbed with cold by the rain, and clutching at the border fence.

A Brazilian woman was raped while in custody. Given the refusal of his colleagues to cooperate in the investigation, the rapist could not be identified and the Supreme Court was unable to act.

A Moroccan worker, under attack from an armed mob, fled his home under a hail of rubber bullets, fired by police who also did nothing to stop the burning of his home or the looting of his possessions.

These are just some of the cases described by Amnesty International in this report which suggest a pattern of violation by law enforcement officers of the rights of members of ethnic minorities and foreign nationals living in Spain. Many of the cases contained in the report appear to indicate that such violations arise as a result of “racial profiling”. In others, as in the case of the expulsion of children from Ceuta and Melilla, violations are even sanctioned by the government authorities.

* Please note that this summary is not a substitute for the report itself.
Amnesty International has, for many years, expressed concern about the torture and
ill-treatment both of Spanish and foreign nationals by public officials.

This report examines the specific issue of race-related torture or ill-treatment by public officials in Spain between the beginning of 1995 and the beginning of 2002.

The cases described in this report are only a small sample of the allegations received by the organization and have been chosen to illustrate the nature, rather than the scale, of the problem.
1. Background

Racial discrimination against the Roma community in Spain has been documented in the past. However, it has taken the recent influx of immigrants to Spain, particularly from Africa, to bring about a recognition that racism and xenophobia are as serious a problem in Spain as elsewhere in Europe.

Spain has a population of over 39 million, of which between two and a half and three per cent are believed to be non-nationals. The most recent figures provided by the Interior Ministry show that the number of foreigners resident in Spain rose from 198,042 in 1981 to 938,783 in 2000. This figure rose again to 1,109,060 in 2001, an increase of 23.81 per cent compared to one of 11.78 per cent in 2000. Added to this is the number of undocumented immigrants living in the country.

Undocumented immigrants - who include many women and children - find themselves in a particularly vulnerable position in relation to state agents. Spanish police officers appear to regard skin colour and facial characteristics, as well as other differences in appearance, as a legitimate reason for stopping individuals and asking for their identity papers. It is in these circumstances that many cases of ill-treatment occur.

2. Race-related torture and ill-treatment

2.1 Deaths in custody

Amnesty International is concerned about the large number of deaths in custody in Spain, including the deaths of foreign nationals. The organization believes that many of the investigations into these cases have not been carried out with the thoroughness, promptness and impartiality required by legal standards.

According to reports received by the organization, at least 28 people died in police or Civil Guard custody between January 1999 and October 2000. Clearly, the inclusion of foreigners and members of ethnic minorities in such a list does not in itself indicate racial motivation but the disclosure that several of them had been stopped by police in identity checks suggests that their deaths may have been based on racial profiling. Some of these deaths were accompanied by allegations of ill-treatment or excessive use of force.

The report gives details of six cases of people who died while in police custody.

2.2 Rape and sexual assault by police and Civil Guards

Amnesty International is concerned about the number of reports of rape and other sexual abuse in police custody. In general terms it can be said that undocumented foreign women are at greatest risk of being subjected to such abuse.

Rape is a crime of violence, aggression and domination, which mainly affects women and is therefore an act of violence against women. This report refers to over
eight cases of foreign women from Colombia, Morocco, Brazil and Peru who were raped or sexually abused in Spanish police stations. Such abuses have not necessarily been the result of racial hostility but their ethnic origin clearly places them in a vulnerable situation since they are more likely to be stopped by the police or Civil Guards.

Amnesty International believes that cases of rape or sexual assault continue to occur because some officers believe that it is unlikely that immigrant women whose documents are not in order - and who may fear deportation even more than sexual abuse - will lodge complaints, or, if they do, that a sense of solidarity between police and judges will protect them from judicial sanction. Police officers who have been found guilty of sexual assault or ill-treatment, or are under investigation for such crimes, have been allowed to continue working in posts which allow them access to female detainees.

2.3 Torture and ill-treatment

Amnesty International believes that physical ill-treatment and abuse of authority by police officers with regard to immigrants and members of ethnic minorities is frequent and widespread, although, for a variety of reasons, only a small number of such cases result in judicial complaints. The organization has received information about cases where the victim was afraid to make a complaint and does not want the case publicized for fear of being ill-treated again or in case it jeopardizes their application for a work or residence permit.

Information available to Amnesty International suggests the existence of the frequent use of “racial profiling” whereby certain individuals are stopped and asked for their papers because of their race or ethnic origin. If thought to be resisting or questioning police identity checks, they may be abused or even assaulted, sometimes resulting in serious injuries.

There have been reports of cases in which those concerned were beaten with truncheons, punched or kicked. Several such cases have resulted in fractures, jaw dislocations, cuts to the face, bruising and other injuries. In most of the cases documented victims had to find their way to hospital. There were also cases of illegal detention. For example, there were instances in which individuals were held at a police station for up to three days without being informed of the reason for their detention. If complaints were filed, counter-complaints were made by officers.

3. Immigrants

3.1 Conditions of detention for immigrants
The lack of basic humanitarian care for newly-arrived immigrants in Spain is of great concern. The organization has also expressed concern about the situation of Moroccan immigrants who, owing to a 1992 agreement between Spain and Morocco, can be immediately deported after being detained. Many have been returned to Morocco in the same wet clothes in which they arrived and suffering from burns. Salt water, when mixed with petrol from boat engines, can cause burns on the skin.

Reports have been received that hundreds of undocumented Moroccans were deported to Ceuta, and from there to Morocco, in inhuman conditions. They were reportedly held, sometimes handcuffed, inside police buses or vehicles which were then driven into the holds of ferries. They were reportedly held in overcrowded conditions, at risk of injury from the movement of other vehicles, subject to great heat and engine noise, and without access to safe escape routes in case of accident. Some ferry captains stated that the police had pressured them to accept the Moroccans as cargo rather than as passengers despite the fact that it is illegal to transport people in such a way.

3.2 Ill-treatment of children

Moroccan children in Ceuta or Melilla, unaccompanied by either their parents or guardians, have been ill-treated when being expelled by police or private security officers. In most cases the children who have been ill-treated are unaccompanied and from broken homes.

3.2.1 Children in Ceuta

Most of the children who arrive in Ceuta accompanied are from Morocco but there are also children from Algeria and the Democratic Republic of Congo (some as young as four years old).

Many of them live on the streets and have no easy access to medical care. They are ill and debilitated by poor nutrition, making them prone to contracting respiratory infections. Conditions at the one reception centre provided for them by the authorities are inadequate: it lacks minimum standards of hygiene and is infested with rats and lice.

The local authorities have not wanted to build further reception centres for fear that by doing so they would encourage more children to come to Spain, and prefer the option of “family regroupment” (tracing and relocating children with relatives in Morocco). However, so far this policy has clearly not been at all successful. Aid workers have criticized this policy, arguing that the vast majority of the families of the children who arrive in Ceuta and Melilla either cannot or do not wish to take care of them.

In recent months reports of renewed expulsions have been received. The children were not told where they were being sent, they had no legal representation and the legality of their expulsion was not examined by the courts.
3.2.2 Children in Melilla

The city of Melilla shares a border with Morocco. Amnesty International has received reports that many children, including some in possession of residence permits, have been included in the new waves of expulsions from Spanish territory. Children, some as young as 11, have been forcibly returned to Morocco despite in many cases having lived in Melilla for several years.

In one case which took place on 30 August 2001, four minors were expelled from Spanish territory and handed over to Moroccan police who beat them and kept them in detention for a day. Other cases confirm that children have been ill-treated by police on both sides of the border.

3.3 Ill-treatment of adult immigrants during expulsion procedures and in detention or reception centres

3.3.1 Use of sedatives or restraints

In June 1996, 103 people from different African countries were expelled from Melilla and Málaga in military aircraft. Fifty of them were sent to Guinea-Bissau where they were immediately detained and subsequently beaten in prison. The Spanish Government admitted that many of them were given water containing sedatives during the flight. Amnesty International has also received reports that some were beaten by Spanish police officers.

Amnesty International is concerned about reports of individual cases of ill-treatment during expulsions and the practice of using adhesive tape to restrain immigrants during deportation. Such allegations refer not only to police officers but to private security guards employed by airlines, or to police officers who fail to act when security guards are using excessive force.

3.3.2 Mass forcible expulsions

In May and June 2001 there were several waves of mass expulsions of Nigerians from Spain. Some of those deported had been transferred from the Spanish peninsula to Ceuta and had been waiting for months for the results of their applications for work and residence permits. At the time of the expulsions many were still awaiting the outcome of their applications.

In the examples mentioned in the report, the police started arresting those to be expelled at night, causing panic among the immigrants. Excessive force appears to have been applied not only to the expellees themselves but also to those who demonstrated on their behalf. The expulsions were also of a discriminatory nature and directed exclusively at persons of Nigerian nationality.

4. Failure of police to protect against racist violence
The events at El Ejido, Andalucía (Almeria), in February 2000 have been described as being among the most deplorable racist riots that have occurred in Spain. The riots took place after two Spanish men and one Spanish woman were killed by immigrants. As a result, between 5 and 7 February a wave of anti-immigrant violence engulfed El Ejido and the neighbouring areas. The violence included attacks on groups of immigrants and buildings belonging to NGOs who helped immigrants. Much immigrant property was totally destroyed and many immigrants were forced to seek refuge where they could, including in police stations.

One of the main issues to arise from the events at El Ejido was the role of the police. Many immigrants lodged complaints claiming that the police had done nothing while they were being threatened and their property was being destroyed.

5. Impunity

Impunity is an issue which affects ethnic minorities and foreigners in specific ways. Their vulnerable status, especially if they are undocumented, makes them fearful of resorting to the law. To this should be added the economic factor which suggests that such individuals would probably consider the cost of presenting a complaint to be beyond their means. Poor knowledge of the language may also inhibit them from lodging a complaint.

Amnesty International has noted that, in those cases where complaints have been lodged by members of ethnic minorities or foreigners, judicial proceedings are unusually protracted. Convictions, if reached, or not overturned on appeal, are frequently nominal and rarely result in the imprisonment of the accused.

An example of the prevailing impunity is the case of three sergeants from Ceuta who lodged a complaint about irregularities in the detention and expulsion of Moroccan children. As a result of their action, the three sergeants were withdrawn from their normal work and then suspended without pay, pending disciplinary proceedings against them. After seven months, they were reinstated because there was no evidence that they had committed any kind of offence.

6. Recommendations

Amnesty International calls on the Spanish authorities to draw up, adopt and implement a national strategy and plan of action to combat all forms of racism. These tools should include specific measures to prevent torture and ill-treatment, as well as any manifestation of racism in the administration of justice.