

SPAIN

CURRENT HUMAN RIGHTS CONCERNS AND A SETBACK IN THE STRUGGLE AGAINST IMPUNITY

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INTRODUCTION

This report was prepared for the Universal Periodic Review (UPR) of Spain in January 2015. In it, Amnesty International evaluates the implementation of recommendations Spain accepted in its previous review in 2010 with regard to excessive use of force and ill-treatment by the security forces, violence against women, the rights of migrants and the fight against discrimination, and the national Human Rights Plan.

With regard to the national human rights framework, Amnesty International is concerned about the lack of codification in Spanish law of several crimes under international law, the adoption of security and anti-terrorist measures in breach of human rights standards, restrictions to the rights to freedom of expression and peaceful assembly, the reforms that restrict the use of the principle of universal jurisdiction in Spain, and a recently-proposed abortion bill.

The organization is also concerned about violations of the human rights of migrants, refugees and asylum seekers, the persistent impunity with regard to crimes under international law committed during the Civil War and Francoism, and concerns with regard to the Basic Law on Comprehensive Protection Measures against Gender-Based Violence.

In the last section, Amnesty International makes a number of recommendations to Spain to address the concerns raised in this report.

FOLLOW UP TO THE PREVIOUS PERIODIC REVIEW

During its previous review, in 2010, Spain accepted 98 of the 128 recommendations made to it by other states.¹ Amnesty International considers that some of these recommendations have not been implemented or have been only partially implemented.

EXCESSIVE USE OF FORCE AND OTHER ILL-TREATMENT BY THE SECURITY FORCES

Seventeen countries made recommendations to Spain with regard to torture and other ill-treatment.²

Despite accepting recommendations to ensure the timely detection and investigation of cases of police abuse, Spain has failed to fulfil its international obligations to adopt legislative, judicial and administrative measures to ensure the right to an effective remedy for anyone who has been subjected to torture or other ill-treatment has, and to provide the necessary administrative and judicial framework to prevent impunity for officers charged with such crimes.

Amnesty International has documented cases of torture and other ill-treatment, as

well as cases of excessive use of force by the security forces.³ In the majority of these cases, the investigations have been prematurely dismissed, and have therefore not reached the trial stage even when there was credible evidence that torture or other ill-treatment had taken place. Even when cases have reached the trial stage, convictions are rare, and when there has been a conviction, these have been mostly symbolic.

VIOLENCE AGAINST WOMEN

Spain accepted eight recommendations with regard to combating violence against women.⁴ In addition, Spain considered that it had already implemented recommendations to ensure that all victims have effective access to legal assistance and protection measures, including women with irregular migration status.⁵

Gender-based violence continues to be one of the main human rights challenges in Spain. In a number of investigations carried out by the authorities Amnesty International has identified several obstacles preventing victims of gender-based violence from accessing effective protection, justice and reparation. Nine years after the entry into force of the Basic Law on Comprehensive Protection Measures against Gender-Based Violence, an evaluation of the operation of the specialized courts on violence against women has still not been carried out.

RIGHTS OF MIGRANTS AND REFUGEES AND THE FIGHT AGAINST DISCRIMINATION

Twenty-five recommendations with regard to racism and discrimination against migrants enjoyed the support of Spain which considered that the suggested measures were already in place.^{6 7}

Although Spain made data public on offences of a racist and xenophobic nature in 2014, this does not happen on a regular basis, and Spain regularly fails to collect and publish details on offences related to other grounds of discrimination. Spain has also failed to develop effective policies against racism and discrimination. Spain continues the practice of carrying out identity checks based on racial profiling despite recommendations by international human rights bodies to eradicate the practice.⁸

Finally, despite accepting recommendations to strengthen measures to ensure the effective protection of the human rights of migrants,⁹ Spain undertook legislative reform in 2012, discussed further below, which negatively impacts on the right to health of migrants in irregular situations. Amnesty International considers this to be a regressive and discriminatory measure, in breach of international human rights standards.¹⁰

NATIONAL HUMAN RIGHTS PLAN

In the previous review, Spain was commended for the adoption of its Human Rights Plan and accepted a recommendation to ensure its maximum implementation.¹¹ However, in February 2012, after the finalization of the Human Rights Plan, Congress passed a motion urging the newly elected government to evaluate the Human Rights Plan and to implement a new Human Rights Strategy;¹² at the time of writing this report, Spain still does not have a Human Rights Plan. Although the government has started the process of evaluating the previous plan, it has failed to undertake a diagnosis of the human rights situation as the basis for the Second Human Rights Plan.

THE NATIONAL HUMAN RIGHTS FRAMEWORK

CRIMES UNDER INTERNATIONAL LAW IN SPANISH LAW

Despite a number of reforms to the Criminal Code, these have failed to criminalize torture and enforced disappearance as separate crimes, within the category of crimes under international law.

The definition of torture in the Criminal Code does not conform to the definition in Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It does not explicitly exclude “due obedience” and “superior orders” as justification for acts of torture, nor does it identify individuals acting at the instigation of or with the consent or acquiescence of public officials, as responsible for torture. The law also does not specifically state that “sexual violence” may amount to torture or other ill-treatment when committed in custody.¹³

The Criminal Code also does not codify the crime of enforced disappearance in accordance with the requirements of the International Convention for the Protection of All Persons from Enforced Disappearance, to which Spain became a party in 2009. Amnesty International considers that the ordinary crime of illegal detention or kidnapping with whereabouts unknown, as contained in Article 166 of the Criminal Code, does not meet the definition under the Convention.¹⁴

SECURITY AND ANTI-TERRORIST MEASURES

The authorities maintain incommunicado detention in domestic legislation for persons suspected of terrorism-related offences. Incommunicado detention not only violates important rights of detainees to ensure a fair trial, including prompt, effective access to legal representation, it has also been strongly criticised by international human rights bodies for facilitating torture and other ill-treatment of detainees.^{15 16}

THE RIGHTS TO FREEDOM OF EXPRESSION AND PEACEFUL ASSEMBLY

The Law regulating the right to freedom of assembly does not envisage or recognise the right to hold spontaneous demonstrations, as provided for by international standards.¹⁷ This law and the reform of the Criminal Code and the Public Safety Law, announced by the government, put at risk the exercise of the right to assembly and expression, as discussed below.¹⁸

THE PRINCIPLE OF UNIVERSAL JURISDICTION IN SPAIN

On 14 March 2014, Basic Law 1/2014, modifying legislation on universal jurisdiction, entered into force in Spain.¹⁹ This further limits the already narrow possibility of investigation in Spain, under the principle of universal jurisdiction, of crimes under international law, such as genocide, crimes against humanity, or war crimes.²⁰

The reform, which contravenes the obligations imposed by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention for the Protection of all Persons from Enforced Disappearances, is a clear step backwards in the struggle against impunity and adds a further obstacle for Spanish judges investigating serious human rights violations

which occurred outside Spain.²¹

SEXUAL AND REPRODUCTIVE RIGHTS

In December 2013, the Government approved a draft bill, the Organic Law for the protection of the life of the conceived and the rights of the pregnant woman. The draft bill proposed a series of obstacles to accessing a safe and legal abortion as well as health information, which would have hampered women and girls in making informed decisions about their own health. In September 2014, however, the government withdrew the draft bill. Despite the withdrawal, Amnesty International remains concerned that the government has publicly stated its intention to amend Organic Law 2/2010 on sexual and reproductive health and voluntary termination of pregnancy in order to impose a parental consent requirement for girls between 16 and 18 years of age seeking a legal abortion.

HUMAN RIGHTS SITUATION ON THE GROUND

RIGHTS OF MIGRANTS, REFUGEES AND ASYLUM-SEEKERS

Spain continues to deny people fleeing from human rights violations in other countries access to appropriate asylum procedures, particularly at the border with Morocco, despite having described the principle of *non-refoulement* as the “cornerstone of the Spanish system of international protection” during its first review.²² There have been collective and individual expulsions to Morocco where those expelled could be at risk of human rights violations. There have also been cases of excessive or unnecessary use of force by the security forces at the borders.

In one such case, on 6 February 2014, a group of about 400 migrants, refugees and asylum-seekers originating from Sub-Saharan Africa attempted to cross the border from Morocco to Ceuta. About 250 of them were pushed back to the area of Tarajal, where they attempted to cross the border by swimming to the Spanish side. The Spanish Civil Guard tried to stop them from reaching the Spanish beach by shooting into the water with anti-riot equipment, including rubber bullets. Those who did reach the beach were immediately sent back to Moroccan territory. At least 14 individuals lost their lives, apparently due to drowning.

Moreover, since 1 September 2012, via the Royal Decree-Law 16/2012, the government has limited the right to health of migrants in irregular administrative status who, with some exceptions, must now pay to receive healthcare, including primary health care. This reform has taken away the healthcare cards from 873,000 migrants, removing or seriously limiting their access to the health system and in some situations putting their lives at risk.²³

Amnesty International considers this a violation of the right to the highest attainable standard of health of migrants living in Spain, as well as a regressive and discriminatory measure, which violates international human rights standards.^{24 25}

THE RIGHTS TO FREEDOM OF EXPRESSION AND PEACEFUL ASSEMBLY

The economic crisis, the high unemployment rate, and the austerity measures introduced by the government, have prompted major public demonstrations by thousands of people. Most of the demonstrations have been peaceful, although in some isolated cases there have been acts of violence.

There have been reports of excessive use of force by law enforcement officers, including against journalists and photographers carrying out their legitimate activities, as well as inappropriate use of anti-riot measures during demonstrations and during arrests. This has been coupled with a lack of proper internal and judicial investigations of alleged violations. As the protests have increased, so has the number of administrative penalties against those participating in the demonstrations.

One such case is that of Consuelo Baudín, who was hit by a rubber bullet on 11 July 2012 while taking part in a protest against cuts outside the Ministry of Industry in Madrid. According to medical report, seen by Amnesty International, Baudín was hit in the back causing multiple injuries which forced her to remain in intensive care for 40 days. In addition to the investigation initiated by the Ombudsman - which remains open at the time of writing - Baudín's family has also brought a criminal case against the police who had caused her the injuries. The case was dismissed by the investigating judge because, although he considers there is evidence of force used by the police that constituted criminal breach, the identity of the perpetrator is unknown. Amnesty International is not aware of Baudín having received any kind of reparation.

Amnesty International is also concerned that the authorities are seeking to stigmatise, or even criminalise, social movements.²⁶

VIOLENCE AGAINST WOMEN

Nine years after the entry into force of the Basic Law on Comprehensive Protection Measures against Gender-Based Violence, many women still face obstacles in accessing justice, with the result that many of them are not receiving the protection they are entitled to under the law.

Since the law came into force, over 500 women have been killed by their partners or former partners. While the authorities have sought to justify their inaction arguing that women suffering abuses fail to report them, there has never been an evaluation of the many factors which prevent women from filing a complaint. These obstacles include shortcomings in the availability and quality of legal assistance and lack of due diligence in the judicial investigation, including the dismissal of cases with hardly any investigation, especially cases where the violence is not obvious.²⁷

The recent health reform mentioned above, which excludes migrant women with an irregular administrative status from accessing health care, makes the prevention and detection of such crimes and the protection of victims even more difficult.²⁸

IMPUNITY FOR PAST HUMAN RIGHTS VIOLATIONS

The rights to truth, justice and reparation have been denied the victims of the Civil War and Francoism (1936-1975). In relation to crimes under international law, these rights are guaranteed as a peremptory international obligation for states. Amnesty International has documented the failure by the Spanish judiciary to respond in the investigations of such crimes, including the continuing trend by Spanish judges to close the cases.²⁹

This trend increased following the Supreme Court ruling of 27 February 2012 that crimes committed during the Civil War and the Franco period should not be investigated by the Spanish courts. The ruling was based on arguments which Amnesty International considers in breach of international law, including in that the crimes are subject to statutory limitations, that those allegedly responsible are presumed dead, and on the basis of the application of the Amnesty Law or the Law of Historical Memory. The Supreme Court has also stated that “the right to know the truth does not form part of the criminal process” and is the task of other bodies, especially historians. Several UN and regional human rights mechanisms have expressed concern at the failure to bring to justice those responsible for past human rights violations and to provide reparations to the victims and their families.³⁰

Amnesty International is also concerned that the Spanish authorities have refused to cooperate with the Argentinean courts – which since April 2010 have exercised universal jurisdiction for crimes under international law committed during Francoism – in the investigation of such crimes.³¹

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the Spanish government:

Crimes under international law in Spanish law

- To criminalise torture and enforced disappearance as separate crimes in the Criminal Code, within the category of crimes under international law and in line with the Convention on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Protection of All Persons from Enforced Disappearance;
- To provide in the legislation sanctions for such crimes in accordance with their seriousness, including by dismissing due obedience and the fulfilment of the duty arguments, and by introducing the criminal liability of superiors for such crimes;
- To unequivocally stipulate in the Criminal Code that the crimes of torture and enforced disappearance may not be subject to a statute of limitations.

National security and anti-terrorist measures

- To end the use of incommunicado detention by repealing Articles 509, 520bis and 527 of the Criminal Procedure Act, which authorise and govern the use of incommunicado detention.

The principle of universal jurisdiction

- To repeal the amendment to Article 23.4 of the Organic Law adopted in Organic Law 1/2014, to enable the authorities to investigate and prosecute persons suspected of a crime under international law on the basis of the principle of universal jurisdiction;

- Ensure that reparation to victims and their relatives is provided.

National Human Rights Plan

- To develop a Human Rights Plan and to ensure its effective implementation as an effective tool to guarantee the respect, promotion, protection and realization of human rights.

The rights of migrants and refugees, including to non-discrimination

- To ensure the full and effective implementation of the asylum legislation, including access to effective asylum procedures in line with international law and to ensure that migration policies fully respect the principle of *non-refoulement*;
- To end the practice of identity checks based on racial profiling;
- To ensure health care for everyone living in Spain, including irregular migrants.

Freedom of expression and peaceful assembly

- To avoid in further law reforms any legislative amendments which would disproportionately limit the exercise of the right to freedom of assembly;
- To promote the adoption by the security forces of clear protocols and best practice, based on international law and standards, to guide the management of public order during demonstrations.

Excessive use of force and other ill-treatment by the security forces

- To guarantee the right not to suffer torture or cruel, inhuman or degrading treatment, to ensure that all allegations of torture or other ill-treatment are subject to an impartial and independent investigation, and to ensure reparation for the victims.

Violence against women

- To guarantee the effective specialization and training of the judicial bodies in charge of investigating cases of gender-based violence, in line with the Basic Law on Comprehensive Protection Measures against Gender-Based Violence;
- To carry out an evaluation of the operation of the specialized courts charged with investigations cases of violence against women to identify and encourage best practice and to ensure accountability in any cases of lack of due diligence.

Sexual and reproductive rights

- To ensure that the obligatory parental consent for girls between 16 and 18 years of age before accessing a legal abortion is not imposed through the reform of the “Organic Law 2/2010 of sexual and reproductive health and voluntary termination of pregnancy” or any other legislative reform

Impunity for past human rights violations

- To investigate the crimes under international law committed during the Civil War and under Franco's regime and to guarantee the rights to truth, justice and reparation to the victims of the Civil War and Francoism;
- To adopt measures to fully and promptly implement the recommendations made to ensure that the Amnesty Law is not an obstacle to obtaining justice and to ensure the non-applicability of statutory limitations to crimes under international law, as stipulated by the UN Human Rights Committee, the Committee against Torture the Working Group on Enforced or Involuntary Disappearance, and the Council of Europe.
- To cooperate fully and in good faith with the Argentinean judiciary in the investigation of crimes under international law committed during the Civil War and Francoism.

END NOTES

¹ Report of the Working Group on the Universal Periodic Review. Spain, fifteenth session, A/HRC/15/6, 16 June 2010, paragraph 84 and 85; and the Addendum A/HRC/15/6/Add.1, 13 September 2010.

² Three countries recommended the criminalisation of torture in accordance with the Convention against Torture. Also, two countries recommended the establishment of independent mechanisms of investigation. Spain was asked to improve its capacity to prevent torture, improve measures to improve the detection and investigation of police abuse, prosecuting those responsible and adopting preventive and corrective measures. The recommendations on this issue accepted by Spain included: Recommendation 84.26 (Hungary), 84.27 (Azerbaijan), 84.28 (Malaysia) and 84.29 (Canada); the recommendations that Spain considers that are implemented or are in the process of implementation included recommendation 85.12 on effective investigation of all allegations of serious human rights violations committed by law enforcement officials (Malaysia). Recommendations 86.19 (Islamic Republic of Iran) and 86.20 (Czech Republic) on the need to adapt the definition of Torture in the Criminal Code in accordance with art. 1 of the Convention against Torture was rejected as Spain considered it complies already with Art. 1 of the Convention. (A/HRC/15/6/Add.1, Para. 11 and 12). Recommendation 86.21 to prevent criminal offences, including assault by police officers and prison guards, and ensure that the integrity of the detainees is guaranteed (Netherlands) was later accepted (A/HRC/15/6/Add.1, Para. 13). The recommendations rejected include those related to establishing an independent mechanism to investigate serious human rights violations, 87.2 (Islamic Republic of Iran) and 87.3 (Denmark). Recommendations 87.4 (Czech Republic) 87.5 (Costa Rica), 87.6 (Austria) on the incommunicado detention regime were also rejected.

³ See *Spain: Adding insult to injury: the effective impunity of police officers in cases of torture and other ill-treatment, Index: EUR 41/006/2007, November 2007*; and *Spain: Adding insult to injury: Police impunity two years on, EUR 41/010/2009, 3 November 2009*.

⁴ See recommendations: 84.30 (Colombia), 84.31 (Bangladesh), 84.32 (Hungary), 84.33 (Malaysia), 84.34 (United Kingdom), 84.35 (Canada), 84.36 (Italy) and 84.37 (Japan). Said recommendations refer to the adoption of more effective measures to prevent and punish violence against women, and the need to strengthen some of the provisions of the Comprehensive Law (Basic Law 1/2004, of 28 December, on comprehensive protection measures against gender-based violence), to facilitate to medical and legal services for women in distress.

⁵ The recommendations that Spain considers that are implemented or are in the process of implementation included: 85.15 (Austria) 85.16 (Norway) 85.17 (Bolivia) 85.18 (Uruguay) 85.19 (Netherlands).

⁶ See recommendations 84.6 (Uruguay), 84.7 (Republic of Korea), 84.14 (Turkey), 84.15 (Egypt), 84.16 (Qatar), 84.17 (Pakistan), 84.18 (Malaysia), 84.19 (Uruguay), 84.20 (United States), 84.21 (Egypt), 84.22 (Peru), 84.23 (Egypt), 84.49 (Jordan), 84.50 (Philippines), 84.51 (Portugal), 84.52 (Colombia), 85.20 (Cuba), 85.21 (Costa Rica), 85.22 (Philippines), 85.23 (Austria), 85.24 (Cuba), 85.25 (Brazil), 85.26 (Slovenia), 85.27 (Belarus), 85.28 (Brazil).

⁷ Several countries asked Spain to sign and ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, a recommendation set aside for subsequent consideration and eventually rejected (A/HRC/15/6/Add.1, para 1 and 2)

⁸ Committee on the Elimination of Racial Discrimination, Concluding observations on Spain, CERD/C/ESP/CO/18-20.

⁹ See recommendation, 84.50 (Philippines), 84.51 (Portugal), 84.53 (Colombia), 85.17 (Bolivia)

¹⁰ International Covenant on Economic, Social and Cultural Rights, art. 12.1; Committee on Economic, Social and Cultural Rights, General Comment 14, The right to the highest attainable

standard of health (Twenty-second session, 2000), U.N. Doc. E/C.12/2000/4 (2000).

¹¹ See recommendation 84.1 (Russian Federation).

¹² On 14 February 2012, and on the initiative of the Basque Parliamentary Group (EAJ-PNV), a motion was adopted in the plenary of the Congress of Deputies urging the government to evaluate the Human Rights Plan of the ninth Legislature and to implement a new Human Rights Strategy (See BOCG. Congreso de los Diputados Núm. D-39 de 21/02/2012; http://www.congreso.es/public_oficiales/L10/CONG/BOCG/D/D_039.PDF#page=21). On 8 May, on the initiative of the parliamentary group Unión, Progreso y Democracia, a motion was also adopted in the Foreign Affairs Committee engaging the authorities to seek ways to ensure that Spain, regardless of the political changes, had Human Rights Plans guiding the policies of the different governments.

¹³ For further information, see Amnesty International, *Recomendaciones de Amnistía Internacional al Proyecto de Ley de reforma del Código Penal*, March 2014, available only in Spanish at <https://doc.es.amnesty.org/cgi-bin/ai/BRSCGI/Documento%20AI%20Código%20Penal%20abril%202014?CMD=VEROBI&MLKOB=32894895213>

¹³ UN Human Rights Council Report, A/HRC/13/NGO/91, 26 February 2010, para 2

¹⁴ For further information see Amnesty International, *Spain: Briefing for the Committee on Enforced Disappearances: 5th Session of the Committee, 4-15 November 2013*, AI Index: EUR41/003/13, available at <http://www.amnesty.org/en/library/asset/EUR41/003/2013/en/3483d6cf-1646-4e48-877d-0da01385fba/eur410032013en.pdf>

¹⁵ See, for example, Preliminary Observations of the Human Rights Committee: Peru, UN doc.: CCPR/C/79/Add.67, para 17, 25 July 1996. On the other hand, UN the Special Rapporteur on the question of torture said, in his report on his visit to Spain in 2003, “although torture or ill-treatment is not systematic in Spain, the system of detention as it is practised allows torture or ill-treatment to occur, in particular in regard to persons detained incommunicado in connection with terrorist-related activities.”; See Report of the Special Rapporteur on the question of, Addendum, Visit to Spain, doc. ONU: E/CN.4/2004/56/Add.2, 6 February 2004, pa. 41

¹⁶ For further information, see “Spain: Out of the shadows: Time to end incommunicado detention”, AI Index” EUR 41/001/2009, September 2009, available at <http://www.amnesty.org/en/library/info/EUR41/001/2009/en>

¹⁷ OSCE Office for Democratic Institutions and Human Rights (ODIHR), Guidelines on Freedom of Peaceful Assembly, para 128.

¹⁸ For further information see Amnesty International, *Spain, the right to protest under threat*, AI Index: EUR 41/001/2014, April 2014, available at <http://www.amnesty.org/en/library/asset/EUR41/001/2014/en/019b583d-9f93-484f-b7e0-e499126e2ebc/eur410012014en.pdf>

¹⁹ Said reform changes article 23.4 of the Basic Law 6/1985 of the Judiciary.

²⁰ The requirements to open an investigation required by the reform include that the alleged perpetrator is Spanish or alien and lives in Spain; or that the victim were Spanish and the alleged perpetrator is in the country.

²¹ Likewise, the reform has an impact not only on future investigations that may be opened, but it also intends to be applied to cases already opened. For further information, see “Los legisladores españoles deben rechazar la reforma propuesta que pretende cerrar la puerta a la justicia para los crímenes más graves”, press release of Amnesty International, available only in Spanish at <https://www.es.amnesty.org/noticias/noticias/articulo/los-legisladores-espanoles-deben-rechazar-la-reforma-propuesta-que-pretende-cerrar-la-puerta-a-la-j/>

²² A/HRC/15/6/Add.1, para. 23, recommendation 86.28 (New Zealand).

²³ Since the adoption of the reform, several United Nations mechanisms have recommended its

review due to the impact on the human rights of migrants: ESCR Committee. Concluding observations. Spain, E/C.12/ESP/CO/5, 17 Mayo de 2012; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. Report of the visit to Spain, A/HRC/23/56/Add.2, 6 June 2013; allegation letter sent to Spain by six UN special mechanisms, AL Poverty (1998-11) Debt (2000-9) Health (2002-7) G/SO 214 (106-10) Trafficking (2004-5) ESP 4/2013; Special Rapporteur on extreme poverty and human rights, Public Statement (<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14545&LangID=E>); and the European Committee on Social Rights of the Council of Europe, Conclusions XX-2 (2013) (Spain), http://www.coe.int/t/dghl/monitoring/socialcharter/Conclusions/State/SpainXX2_en.pdf

²⁴ International Covenant on Economic, Social and Cultural Rights (ICESCR), art. 12.1; Committee on Economic, Social and Cultural Rights, General Comment 14, The right to the highest attainable standard of health (Twenty-second session, 2000), U.N. Doc. E/C.12/2000/4 (2000)

²⁵ For further information, see Amnesty International, *El laberinto de la exclusión sanitaria: Vulneraciones del derecho a la salud en las Islas Baleares* June 2013, available only in Spanish at <https://doc.es.amnesty.org/cgi-bin/ai/BRSCGI/sanidad%20españa?CMD=VEROBJ&MLKOB=32500201246>

²⁶ For further information, see Amnesty International, *Spain, the right to protest under threat*, AI Index: EUR 41/001/2014, April 2014, available at <http://www.amnesty.org/en/library/asset/EUR41/001/2014/en/019b583d-9f93-484f-b7e0-e499126e2ebc/eur410012014en.pdf>

²⁷ For further information, see Amnesty International, *Qué justicia especializada: A siete años de la Ley Integral contra la Violencia de Género: Obstáculos al acceso y obtención de justicia y protección*, November 2012, available only in Spanish at <https://doc.es.amnesty.org/cgi-bin/ai/BRSCGI/Que%20justicia%20especializada.informe%202012?CMD=VEROBJ&MLKOB=32130865353>

²⁸ For further information, see Amnesty International, *El laberinto de la exclusión sanitaria: Vulneraciones del derecho a la salud en las Islas Baleares* June 2013, available only in Spanish at <https://doc.es.amnesty.org/cgi-bin/ai/BRSCGI/sanidad%20españa?CMD=VEROBJ&MLKOB=32500201246>

²⁹ *Time passes, impunity remains: Universal jurisdiction universal, a tool with which victims of the Civil War and Franco eras can combat impunity*, June 2013, available in Spanish at <https://doc.es.amnesty.org/cgi-bin/ai/BRSCGI/EUR4140013-25119%20EI%20tiempo%20pasa%20la%20impunidad%20permanece%20Informe?CMD=VEROBJ&MLKOB=32463093939> and executive summary available in English at <http://www.amnesty.ca/sites/default/files/spainainpainreportssummary17june13.pdf>

³⁰ For example, the Human Rights Committee has recommended Spain to repeal the Amnesty Law, take the necessary legislative measures to guarantee recognition by the domestic courts of the non-applicability of a statute of limitations to crimes against humanity; and setting up a commission of independent experts to establish the truth (Human Rights Committee, Concluding observations, Spain. UN. Doc. CCPR/C/ESP/CO/5 (2009), 5 January 2009, Para. 9).

The Council of Europe has urged the government to set a committee to investigate violations of human rights committed under the Franco regime and submit said report to the Council of Europe (Parliamentary Assembly of the Council of Europe, Recommendation 1736 (2006), 17 March 2006, condemning Franco's dictatorship. Doc. 10737, Recommendation 8.2.1). It should be taken into account that the Council of Europe, in Resolution 828 (1984) on enforced disappearances, expressly declares that they may not be covered by amnesty laws (Para. 13 a).

The Committee against Torture has recommended Spain to ensure that acts of torture, which include enforced disappearances, are not offences subject to amnesty; find out what happened to the missing persons, not be constrained by the principle of legality or the statute of limitation, and ensure that the victim of an act of torture obtains redress (Committee against

Torture, Concluding observations, CAT/C/ESP/CO/5, 19 November 2009, Para. 21).

The Working Group on Enforced or Involuntary Disappearances has reminded the Government of its obligation to carry out thorough and impartial investigations for as long as the fate of the victim of enforced disappearance remains unclarified (Human Rights Council, Report of the Working Group on Enforced or Involuntary Disappearances, A/HRC/13/31, 21 December 2009, Para. 502).

³¹ For further information, see Amnesty International, *Casos cerrados, heridas abiertas: El desamparo de las víctimas de la Guerra Civil y el franquismo en España*, mayo de 2012; and Amnesty International, *El tiempo pasa la impunidad permanece: La jurisdicción universal, una herramienta contra la impunidad para las víctimas de la Guerra Civil*, June 2013, available in Spanish at <https://doc.es.amnesty.org/cgi-bin/ai/BRSCGI/EUR4140013-25119%20El%20tiempo%20pasa%20la%20impunidad%20permanece%20Informe?CMD=VEROBJ&MLKOB=32463093939> and executive summary available in English at <http://www.amnesty.ca/sites/default/files/spainispainreportssummary17june13.pdf>

ANNEX

AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE³²

Casos cerrados, heridas abiertas: El desamparo de las víctimas de la Guerra Civil y el franquismo en España, May 2012

El laberinto de la exclusión sanitaria: Vulneraciones del derecho a la salud en las Islas Baleares, June 2013

El tiempo pasa la impunidad permanece: La jurisdicción universal, una herramienta contra la impunidad para las víctimas de la Guerra Civil, June 2013

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³² All these documents are available at: <https://doc.es.amnesty.org/cgi-bin/ai/BRSCGI?CMD=VERPAG&PAG=formulario>.