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Spain

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Contents

	<i>Page</i>
I. Methodology	3
II. Normative and institutional framework	3
III. Fulfilment of international obligations.....	5
IV. Protection and promotion of human rights in Spain.....	5
A. Introduction	5
B. Rights of foreigners	5
C. Asylum and refugee policy.....	6
D. Integration policy.....	8
E. Efforts to combat racism and xenophobia	9
F. Equality between men and women, and non-discrimination on grounds of sexual orientation.....	10
G. Human rights of children and the elderly	13
H. Human rights and efforts to combat terrorism.....	13
I. Protection against torture and enforced disappearance.....	14
J. Economic, social and cultural rights.....	16
K. Persons with disabilities and dependent persons	17
V. Priorities in the area of human rights at the international level.....	18
VI. Conclusion	19

I. Methodology

1. The present report, submitted by Spain under the universal periodic review mechanism of the Human Rights Council, has been coordinated by the Directorate-General for the United Nations, Global Affairs and Human Rights of the Ministry of Foreign Affairs and Cooperation. In addition to the various departments of the Ministry, contributions have been made by the Office of the Prime Minister and the ministries of justice, the interior, education, health and social policy, labour and immigration, culture, the rural, marine and natural environment, housing, and equality.

2. Following the completion in September 2009 of an initial draft including contributions from the above-mentioned ministries, both the Ombudsman and Spanish human rights NGOs contributed comments and suggestions. The report was granted final approval by government lawyers from the Ministry of Justice.

II. Normative and institutional framework

3. The general framework for the protection of human rights is provided by the Spanish Constitution, specifically title I (fundamental rights and duties), as supported by article 10.2 (“Provisions relating to the fundamental rights and liberties recognized by the Constitution shall be construed in conformity with the Universal Declaration of Human Rights and international treaties and agreements thereon ratified by Spain”). The Constitution provides a system of guarantees:

(a) *Legislative guarantees*: according to article 53.1: “Only by an act which in any case must respect their essential content, may the exercise of such rights and freedoms be regulated.” Furthermore, according to article 81, “organization acts are those relating to the implementation of fundamental rights and public freedoms” and “the adoption, amendment or repeal thereof shall require the overall majority of the Members of Congress in a final vote on the bill as a whole”;

(b) *Judicial guarantees*: article 53.2 provides a strengthened guarantee whereby any individual may assert a claim to protect the freedoms and rights recognized in article 14 and in the first section of chapter 2, by means of a preferential and summary procedure before the ordinary courts. The judicial function is entrusted to independent and impartial bodies specifically responsible for protecting human rights;

(c) *Constitutional guarantees*: via an application for *amparo* before the Constitutional Court once judicial remedies have been exhausted;

(d) *Institutional guarantees*: demonstrated below.

4. The **Ombudsman** is defined in article 54 of the Constitution as a “High Commissioner of the Parliament, appointed to defend the rights contained in title I of the Constitution; for this purpose he or she may supervise the activity of the Administration and report thereon to the Parliament.” In addition to this supervisory role, the Ombudsman, in his capacity as a defender of the rights of the individual, is authorized to lodge an application for *amparo* in respect of those rights (Constitution, art. 162, and Constitutional Court Act, art. 46). Similarly, the Ombudsman is entitled to lodge a constitutional challenge pursuant to article 162 of the Constitution, and is specially authorized to bring a habeas corpus procedure before the ordinary courts.

5. In the Spanish legal system, the **Public Prosecutor’s Office** is the upholder of the law, as specified in article 124 of the Spanish Constitution, where it is stated that the Office “has the task of promoting the operation of the justice system in the defence of the rule of

law, of citizens' rights and of the public interest as safeguarded by the law, whether ex officio or at the request of interested parties, as well as that of protecting the independence of the courts and securing before them the satisfaction of social interest" by "discharging its duties through its own bodies in accordance with the principles of unity of operation and hierarchical subordination, subject in all cases to the principles of the rule of law and of impartiality".

6. **Parliamentary committees:** The Regulations of the Congress of Deputies, of 10 February 1982 (arts. 40 to 53), govern the competence of the Standing Constitutional Committee and the Standing Petitions Committee and authorize the latter to examine individual or collective petitions received by Congress.

7. In Spain, respect for human rights is strengthened by article 10.2 of the Constitution, according to which "provisions relating to the fundamental rights and liberties recognized by the Constitution shall be construed in conformity with the Universal Declaration of Human Rights and international treaties and agreements thereon ratified by Spain".

8. The above-mentioned system for protecting civil and political rights is supplemented by the international guarantee deriving from Spain's adherence to international agreements relating to the protection of those rights (see section III below, "Fulfilment of international obligations").

9. The **Human Rights Plan** is also of great importance. The Spanish Government felt it was time to follow up the proposal made in 1993 at the World Conference on Human Rights in Vienna, that States should prepare a national action plan identifying steps to improve the promotion and protection of human rights. The plan adopted on 12 December 2008 is open-ended in the sense that it is an ongoing process subject to periodic valuations and the inclusion of new proposals and commitments.

10. The plan is based on the Universal Declaration of Human Rights and on the instruments and resolutions of the United Nations and the Council of Europe. It takes a broad view of human rights that includes not only civil and political rights but also economic, social and cultural rights, as well as other emerging rights such as the right to a healthy environment, the right to peace or the right to water.¹

11. The plan will initially be valid for the term of the current legislature (2008–2012). The Government has established a commission to follow up the plan, which will consist of representatives of the executive and civil society and will be chaired by the Secretary of State for Constitutional and Parliamentary Affairs. The commission will assess the implementation of the measures set forth in the plan and make proposals for inclusion in it. The Government may include new measures in the plan either on its own initiative or at the suggestion of the follow-up commission or private individuals. The commission will meet in plenary at least twice a year, once in the first half of the year and once in the second. It may also convene sector-specific meetings to assess practical aspects of the plan. The chair of the follow-up commission will appear once a year before the congressional constitutional committee to report on implementation of the commitments undertaken. The Ombudsman is expected to be given advance notice of the meetings of the commission, and of the agenda thereof, and can send an institutional representative at his discretion.

12. Finally, it should be noted that the lead human rights body in the Spanish Government is the **Human Rights Office** of the Directorate-General for the United Nations, Global Affairs and Human Rights (Ministry of Foreign Affairs and Cooperation), which is responsible for monitoring the implementation of the international human rights treaties and conventions signed by Spain. This task involves producing periodic reports, promoting studies and activities in this area, and providing relevant advice in close cooperation with other government departments and civil society.

III. Fulfilment of international obligations

13. Spain has accepted extensive obligations for the protection of human rights and has submitted to the authority of international supervisory bodies; it has kept up to date with the submission of its periodic reports. Particular importance is attached to the requirements of the European Court of Human Rights, which monitors compliance with the European Convention for the Protection of Human Rights and Fundamental Freedoms (the European Convention on Human Rights). Spain has ratified most multilateral human rights agreements in the framework of both the Council of Europe and the United Nations.²

IV. Protection and promotion of human rights in Spain

A. Introduction

14. Respect for and the protection and promotion of human rights in Spain have undergone a profound transformation since the advent of democracy (first democratic elections) in 1977 and the approval of the 1978 Constitution (which, *inter alia*, partially abolished the death penalty; subsequent legislation abolished it entirely in times of peace). Unequivocal evidence of the new Spanish democracy's commitment to human rights within the context of the United Nations was the signing and ratification (on 27 April 1977) of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. At the European level, Spain became a member of the Council of Europe on 24 November 1977. Since that time, human rights have emerged as a priority of Spain's domestic as well as foreign policy (with the added momentum resulting from Spain's accession to membership of the European Communities on 1 January 1986). This has been matched by a growing and salutary rise in Spanish society's awareness of human rights issues; this process has led to a strengthening of Spanish human rights NGOs.

15. Over these three decades of democracy, Spain has demonstrably fulfilled the obligations stemming from the various human rights conventions and treaties to which it has become a party, by regularly submitting periodic reports to the committees that monitor the implementation of and compliance with those international instruments.³

16. Similarly, since 1998 the above-mentioned Human Rights Office of the Ministry of Foreign Affairs and Cooperation has run an international programme in Spain to provide assistance to human rights defenders, receiving activists facing persecution and death threats in various Ibero-American countries. The Office has also done important work on information dissemination and training in the area of human rights through various courses that it organizes or in which it participates periodically.

B. Rights of foreigners

17. Pursuant to Organization Act No. 4/2000 of 11 January, on the rights and freedoms of aliens in Spain and their social integration, and to Organization Acts Nos. 8/2000 of 22 December, 11/2003 of 29 September and 14/2003 of 20 November, as well as Royal Decree No. 2393/2004 of 30 December adopting the regulations of Act No. 4/2000, foreigners are granted the following rights under the same conditions as Spanish nationals: the rights to freedom of movement and residence; the right to participate in public life; the rights to freedom of assembly, demonstration and association; the rights to education, employment and social security; the right to strike; the rights to health care, housing, social security and social services, and a private family life; and the rights to effective legal

protection and free legal assistance. Constitutional Court judgement No. 236/2007 of 7 November introduced an important revision of the above-mentioned Act in areas such as freedom of association, the right to education, and the right to strike or organize, extending these rights to non-nationals in an irregular situation.

18. The Act underwent a major reform following the adoption of Organization Act No. 2/2009 of 11 December, amending Organization Act No. 4/2000. The aim was to establish a framework of rights and freedoms for foreign nationals that guarantees the full exercise of fundamental rights for all and the gradual introduction of other rights in proportion to the length of legal residence in Spain. The right of foreigners to contact organizations that provide assistance to immigrants is recognized. The issue of “family reunification”, including recognition of rights in cases of non-marital relationships, is also under consideration.

19. Figures and statistical data on foreigners in Spain.

European Union nationals and other foreign residents

	2003	2004	2005	2006	2007	2008	2009
European Union	572 116	673 566	782 782	926 095	1 619 105	2 153 145	2 207 092
Other foreigners	1 074 895	1 308 367	1 964 616	2 110 650	2 366 826	2 360 417	2 519 576
Total	1 647 011	1 981 933	2 747 398	3 036 745	3 985 931	4 513 562	4 726 668
General regime (%)	65.3	66	71.5	69.5	59.4	52.3	53.3
Community regime (%)	34.7	34	28.5	30.5	40.6	47.7	46.7

20. Spain, in common with all other developed countries that are destinations for international migratory flows, is not a signatory to the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. No European Union member State has yet consented to be bound by this Convention. The main reason for this is that part III of the Convention confers rights on all workers and their families without distinction, i.e. regardless of whether or not they are in a regular situation (arts. 8 to 35). Existing Spanish legislation clearly differentiates between migrants in a regular situation and those in an irregular situation, and although the 1978 Constitution recognizes all fundamental rights for all persons located within its jurisdiction, Organization Act No. 2/2009 of 11 December, amending Organization Act No. 4/2000 of 11 January, on the rights and freedoms of aliens in Spain and their social integration, specifies (a limited number of) rights applicable only to migrants in a regular situation.

C. Asylum and refugee policy

21. Asylum and refugee policy is governed by Act No. 12/2009 on the right of asylum and subsidiary protection, which incorporates relevant community standards (e.g. Council directives 2004/83/EC and 2005/85/EC), implying the full integration of the so-called phase one of the common European asylum system into the Spanish legal system. At the national level, the Act introduces a number of provisions that are compatible with European regulations and reflect an intention to use the Act as an effective instrument for guaranteeing the international protection of those persons who are under its jurisdiction and for strengthening the relevant institutions. The Office of the United Nations High

Commissioner for Refugees (UNHCR) is expected to play a prominent role in this area, and a legal framework is being established for the adoption of resettlement programmes, in cooperation with the international community, as part of the search for lasting solutions to refugee issues. It should be noted that the Act enables refugee status to be extended to foreign women fleeing their countries of origin because of a well-founded fear of being persecuted for reasons of gender, and also provides protection in the event of discrimination on grounds of sexual orientation or in circumstances prejudicial to persons with disabilities, older persons and other vulnerable persons. In addition to the said Act, other asylum system guarantees have been strengthened:

(a) A procedure for facilitating the issuance of work permits to asylum-seekers, in accordance with the seventeenth additional provision of the regulations for the implementation of Organization Act No. 4/2000 (Directorate-General for Domestic Policy, Instruction of 28 January 2005);

(b) Measures for identifying stowaways in need of international protection (Directorate-General for Domestic Policy, Instruction of 14 July 2005 relating to aspects of the international protection procedure to be followed with stowaways, as incorporated into the new instruction on stowaways of 28 November 2007);

(c) Measures for strengthening the asylum system in order to facilitate the provision of information to foreigners who have recently arrived on board small boats or other makeshift craft and who have been placed in holding centres for foreigners (Directorate-General for Domestic Policy, Instruction of 21 November 2005);

(d) NGOs specializing in refugee law have access to holding centres for foreigners in the Canary Islands, where many foreigners arrive in boats;

(e) Subsidiary protection is strengthened as an institution for cases where not all the requirements for refugee status to be recognized have been met. Act No. 12/2009 of 30 October, which regulates the right of asylum and subsidiary protection, establishes subsidiary protection as an institution in its own right, thereby combining it almost in its entirety with the right of asylum statute. In 2009 subsidiary protection was extended to 155 persons, more than the 2008 total of 136. These figures can be explained in part by a return to stability in conflict zones such as Côte d'Ivoire;

(f) An increase in the number of applicants granted leave to proceed as well as improvements in the quality of processing of asylum applications and a strengthening of guarantees. The increase in the number of applicants granted leave to proceed continued throughout 2009, with an application processing rate of 46.68 per cent, compared with 43.26 per cent in 2008, and 42.38 per cent in 2007;

(g) Development of a "Guide to best practice in processing applications for asylum" in cooperation with UNHCR and NGOs.

22. Statistical data and figures on asylum and refugee status in Spain:

<i>Year</i>	<i>Applicants</i>
2005	5 257
2006	5 297
2007	7 664
2008	4 517

<i>Year</i>	<i>Countries of origin</i>
2005	Colombia, Nigeria, Algeria, Mali, Guinea-Conakry
2006	Colombia, Nigeria, Morocco, Côte d'Ivoire, Algeria
2007	Colombia, Iraq, Nigeria, Côte d'Ivoire, Morocco
2008	Nigeria, Colombia, Côte d'Ivoire, Somalia, Algeria

<i>Year</i>	<i>Asylum</i>	<i>Subsidiary protection</i>
2005	246	163
2006	212	210
2007	233	357
2008	169	136

D. Integration policy

23. In February 2007 the Government adopted the Strategic Plan for Citizenship and Integration (2007–2010). The plan is aimed at the population as a whole, both indigenous and immigrant, since it aims to enhance social cohesion by promoting public policies based on equality of rights and duties, equality of opportunity, the emergence among the immigrant population of a feeling of belonging to Spanish society, and respect for diversity. The plan was developed, in a context of maximum social and institutional participation and consensus-building, by the autonomous communities, district councils, employers, unions, immigrants' associations and NGOs, and received a favourable report from the Forum for the Social Integration of Immigrants.

24. The three guiding principles of the Strategic Plan for Citizenship and Integration are the principles of equality, citizenship and multiculturalism. The measures included in the plan are divided into 12 areas: reception, education, employment, housing, social services, health, children's and youth issues, women's issues, equal treatment, participation, awareness-raising and co-development.

25. The Support Fund for the Admission, Integration and Education of Immigrants was created in 2005 with an annual budget of €120 million, and is part of the Strategic Citizenship and Integration Plan. The fund is not only a financial instrument but also a framework for cooperation with the autonomous communities and, through these, with district councils.⁴

26. Subsidies financed by the State budget also support the activities of NGOs working for the immigrant population and those of the immigrants' own associations in the following areas: comprehensive reception services; extra-curricular educational programmes; health programmes; programmes for women; voluntary repatriation, awareness-raising and employment programmes; and programmes intended to streamline and enhance organizational structures. In 2010, nearly €60 million will be invested in the organizations' programmes.

27. The Forum for the Social Integration of Immigrants is the body that provides information and advisory services to the Government in the area of immigrant integration. The Forum formulates proposals and gathers information with a view to promoting immigrant integration, it generates mandatory reports on government legislation and projects in the area of immigrant integration prior to the adoption thereof, and produces an annual report on the social integration of immigrants. The Forum is a tripartite body in

which public authorities (the State, the autonomous communities and local authorities), organizations that support immigrants, including employers' organizations and trade unions, and immigrants' associations participate on an equal footing.

E. Efforts to combat racism and xenophobia

28. The main organs that promote an integrated public policy in this area are the General Secretariat of Equality Policies, which reports to the Ministry of Equality, and the Directorate-General for the Integration of Immigrants,⁵ which reports to the Ministry of Labour and Immigration via the Racism and Xenophobia Monitoring Centre. One of the functions of the General Secretariat of Equality Policies is to coordinate the policies of the General State Administration in the area of equal treatment, equality of opportunity and the elimination of all forms of discrimination against individuals on grounds of sex, racial or ethnic origin, religion or ideology, sexual orientation, age or any other personal or social condition or circumstance, as well as the development of cooperation policies with the administrations of the autonomous communities and local entities. These functions are carried out by the Directorate-General against Discrimination.

29. The Directorate-General against Discrimination is responsible for promoting cross-cutting policies against discrimination; producing reports and studies; defining measures that contribute, within the framework of the General State Administration, to equal treatment; providing training and information in this area; and creating services to help victims of crimes motivated by racism, homophobia or xenophobia. Pursuant to the provisions of article 7.3 of Royal Decree No. 1135/2008, the Council for the Promotion of Equal Treatment of All Persons without Discrimination on Grounds of Racial or Ethnic Origin is attached to this executive body.

30. The Spanish Racism and Xenophobia Monitoring Centre is responsible for compiling information on racism and xenophobia for use as the basis for studies and reports, as well as for promoting and coordinating policies in favour of the principle of equal treatment, and combating racism and xenophobia in the area of immigration. As far as the compilation of information and the preparation of studies and reports are concerned, attention is drawn to the following:

- The Sociological Research Centre (CIS) surveys "Attitudes to immigration" carried out for the Secretariat of State for Immigration and Emigration, and the subsequent analysis of the survey results on the basis of a longitudinal approach looking at trends (the most recent data are compared with those recorded earlier to determine how they have evolved) and an analytical approach (investigating causes and explaining the observed changes in trends)
- Various projects such as the Anti-Discrimination Resource Centre, a resource network accessible via the web page of the monitoring centre (<http://www.oberaxe.es/creadi/>) and containing information on services providing information, advice, support and mediation covering all discrimination issues

31. In this context, the Alliance of Civilizations should be mentioned as a key instrument for Spain and other countries that have joined this initiative and are involved in international efforts to combat racism and xenophobia, with a particular emphasis on four areas: inspection, education, youth and media. Indeed, the ultimate goal of the Alliance of Civilizations is none other than to enhance understanding and cooperative relationships between nations and peoples of various cultures and civilizations (not simply Muslim and Western civilizations), and thereby help to counteract the forces that feed polarization and extremism. The aim is therefore to promote trust and understanding among different communities, and intercultural respect and understanding, and to amplify the voices of

moderation and reconciliation that help to reduce the cultural and religious tensions between nations and peoples, as these tensions form the basis for racism and xenophobia.

32. As regards the Gypsy population, data on membership of a group defined in terms of race, ethnic group, sex, religion or other economic and social circumstance are protected by law, which is why they do not appear in the official population statistics. Information provided by the Ministry of Health and Social Policy and extracted from various sociological studies and reports indicates that Spain's Gypsy population numbers around 650,000 to 700,000 persons, i.e. approximately 1.6 per cent of the total population of Spain. The Gypsy Development Programme is one of the main projects intended to assist the Gypsy population and its goal is to enable this population to access standard public services in the areas of, inter alia, education, health, housing and employment, under the same conditions as the rest of the population.⁶

33. Each year an average of 110 projects are implemented, mostly managed by district councils in 15 autonomous communities, with a year-on-year average (2004–2008) of €6,583,305 in co-funding by the three administrations. Total funding over this five-year period was €32,422,963. In 2009, 93 projects were co-funded to the tune of €1,065,160. In this area, the Ministry of Health and Social Policy grants an annual subsidy to an average of 130 projects managed by 20 NGOs in 65 localities, with a year-on-year average (2004–2008) of €3,728,186.76. Total funding over the above-mentioned five-year period amounted to €18,640,928.82. Priority is given to the following programmes: training and employment programmes; training programmes for mediators; comprehensive social programmes; programmes and services to promote children's education and mandatory schooling; programmes to encourage students to stay on in secondary and further education; literacy and social skills programmes for Gypsy women; and prevention and health education programmes for Gypsy women. In 2009, 132 projects managed by 23 NGOs were funded in 70 localities, with a total funding of €6,009,269.

34. The Council of Ministers will shortly adopt a plan of action for the development of the Gypsy population (2010–2012), with the participation of the State Council of the Gypsy People and the various ministries whose activities have the greatest impact on the Gypsy community.⁷

35. The State Council of the Gypsy People, a State-level body, was established in 2005 (Royal Decree No. 891/2005 of 22 July, on the creation and regulation of the State Council of the Gypsy People) and formally founded on 20 June 2006 with the aim of establishing the conditions required for the effective participation of the Gypsy population. It is currently attached to the Directorate-General for Social Policy, Families and Children under the Ministry of Health and Social Policy. Notable in the area of culture is the creation of the Gypsy Cultural Institute, a foundation attached to the Spanish Ministry of Culture.

F. Equality between men and women, and non-discrimination on grounds of sexual orientation

36. Spain's general constitutional framework fully reflects the principle of equal treatment and non-discrimination. The Spanish Constitution provides that equality is a higher value of the legal system to be guaranteed by the authorities (article 1.1, and more specifically article 14). Similarly, article 9.2 requires the authorities to remove obstacles and promote the conditions required for equality to be real and effective. The Ministry of Equality is responsible for promoting equality policies. In June 2008 and March 2009, the European Union Agency for Fundamental Rights released a report on discrimination based on sexual orientation in Europe, in which Spain was held up as a model of best practices both in terms of legislation (cf. Act No. 13/2005 allowing marriage between persons of the

same sex, and Act No. 3/2007 on gender identity) and institutionally, taking into consideration the involvement and participation of the lesbian, gay, bisexual and transgender community through their activities in support of their demands.

37. The Government's role in promoting equality policies is reflected by the adoption of:

- Organization Act No. 1/2004 of 28 December, on comprehensive protection measures against gender-based violence
- Organization Act No. 3/2007 of 22 March, on effective equality between men and women (hereinafter referred to as the Equality Act)

38. The adoption of the Equality Act enshrines the principle of equal treatment and opportunities as a cross-cutting theme in all the activities of the authorities. Its multidimensional nature can be seen in the 27 reforms it introduces to a wide variety of laws (electoral system, judiciary, employment, workers' statute, social security, health, education, asylum, armed forces, State security forces, etc.).

39. The Equality Act addresses the need for a balance between women and men in all decision-making bodies, such that neither sex makes up more than 60 per cent or less than 40 per cent thereof. This proportion has been made mandatory on electoral lists, and the organization act on the electoral system has been amended accordingly. The boards of directors of major corporations are invited to reach the same target within eight years.

40. Furthermore, the Equality Act requires the Government to provide a gender impact report whenever a plan of particular economic, social, cultural or artistic relevance is submitted to the Council of Ministers for adoption. Since 2003, the Government has been required to provide a gender impact report for all draft legislation. The most important novelty introduced by this new requirement was the gender impact report that accompanied the 2009 General State Budget Bill.

41. The Spanish Government's national plan of action for the implementation of Security Council resolution 1325 (2000) on women and peace and security has six key goals:

- Encourage the involvement of women in peace missions
- Integrate a gender perspective into all phases of such missions
- Provide specific gender training to mission staff
- Respect the human rights of women and girls in conflicts
- Uphold the principle of equality in disarmament, demobilization and reintegration processes
- Promote the involvement of civil society in this area

42. Each of these goals requires a number of actions to which the Spanish Government is committed at the national level, at the level of the European Union and other regional organizations (the North Atlantic Treaty Organization and the Organization for Security and Cooperation in Europe), and at the global level, through the United Nations. As a means of following up plan-related activities, an inter-ministerial working group comprising representatives of the relevant ministries was set up on 11 April 2008 and tasked with coordinating the activities carried out in conjunction with civil society.

43. The Strategic Plan on Equal Opportunities (2008–2011), adopted in December 2007, is governed by four guiding principles: the redefinition of a model of citizenship, the empowerment of women, the mainstreaming of the principle of equality, and the

recognition of scientific and technical innovation as a force for social change. The plan is rooted in two basic principles: non-discrimination and equality.

44. Organization Act No. 1/2004 of 28 December, on comprehensive protection measures against gender-based violence, is intended to eradicate one of the most common forms of violence perpetrated against women by current or former spouses or partners. The Act defines gender-based violence as any act of physical or psychological violence, including sexual abuse, threats, coercion or arbitrary detention, committed by men against women who are or have been their spouse or partner, or have or have had a similar affective relationship with them, even if they were not cohabiting. The Act provides a comprehensive and consistent response involving all public authorities and establishes comprehensive protection measures with the aim of preventing, punishing and eradicating such violence and assisting victims, regardless of their origin, religion or any other personal or social condition or circumstance.

45. The plan to prevent gender-based violence in the foreign immigrant population (2009–2012) is intended to create suitable conditions for addressing the problem of gender-based violence while taking into account the specific circumstances in which the foreign population lives, with a view to enhancing assistance and prevention from a global perspective. For this purpose, the basic aim of the initiatives is to remedy two fundamental problems: one is cultural bias, to be remedied through information and awareness-raising; and the other concerns external support, to be remedied by means of support, advice and assistance that reinforce women's rights.

46. Human trafficking is an increasingly widespread problem. The way that it reduces human beings to the status of a mere commodity is scandalous, and it is one of the most serious violations of human rights. The importance attached to this issue is reflected by the adoption of two plans that address the problem from the angle of both sexual exploitation and labour exploitation.

47. The comprehensive plan to combat human trafficking for purposes of sexual exploitation, adopted in December 2008, is intended to be the first comprehensive planning instrument for efforts to combat human trafficking for purposes of sexual exploitation in Spain.⁸

48. The plan will cover a period of three years (2009–2012). An inter-ministerial coordination group has been set up to monitor and evaluate the plan, and it comprises representatives of the following ministries: the Ministry of Foreign Affairs and Cooperation; the Ministry of Justice; the Ministry of the Interior; the Ministry of Education; the Ministry of Health and Social Policy; the Ministry of Labour and Immigration; and the Ministry of Equality (chair of the group). Furthermore, a social forum against human trafficking for purposes of sexual exploitation has been set up and is intended to act as an instrument for cooperation, collaboration and exchange between public administrations, institutions and civil society with the aim of ensuring comprehensive coordination and consistency of activities and protecting victims' rights. The establishment of this forum, with the participation of public administrations, NGOs and other institutions providing assistance to victims and combating this type of crime, will enable exchanges of views and monitoring of the plan.

49. The various ministries and institutions will submit half-yearly follow-up reports to the inter-ministerial group. An annual report based on this information will be submitted to the Executive Committee for Equality.

50. The Government is also preparing a comprehensive plan to combat human trafficking for purposes of sexual exploitation, with the aim of enhancing legal safeguards and protecting victims of this scourge. The plan will include law-enforcement and social measures and will involve the ministries of the interior, equality, labour and immigration,

foreign affairs, and justice. The plan will be supported by a suitable coordination and follow-up mechanism.

51. Spain is firmly committed to combating all forms of discrimination and, in particular, discrimination on the grounds of sexual orientation and gender identity. That being so, and within the context of the principle of equality enshrined in article 1.1 and more specifically article 14 of the Constitution, Parliament adopted Act No. 13/2005 and Act No. 3/2007, amending the Civil Code in relation to the right to marry, so as to allow marriage between persons of the same sex, with the same rights and duties, including the right to adoption.

G. Human rights of children and the elderly

52. The legal basis for the protection of children lies in Organization Act No. 1/1996 of 15 January, on the legal protection of minors and partial amendment of the Civil Code and the Civil Proceedings Act, as supplemented by a series of standards and initiatives including the National Strategic Plan for Children and Adolescents (2006–2009). This plan aims to promote a culture of cooperation between public and private institutions involved in promoting and defending children, with a view to enhancing policies affecting children, promoting greater awareness of the rights, interests and needs of children, and striving to reduce situations of exclusion, lack of opportunity, inequality and a lack of meaningful participation in society. The vision behind the plan is that it should cut across and interact with all autonomous communities and local authorities. This factor is key to the financial resources invested in this area, which are shared between the central, regional and local levels and have risen from €20.9 million in 2002 to €37.4 million in 2007. The plan is currently being reviewed as part of the process of defining a new multi-year national strategic plan for children and adolescents. Children's Watch adopted the Second Plan to Combat the Sexual Exploitation of Children and Adolescents, which is also being reviewed as part of the process of preparing the new plan. Also worthy of note is Act No. 54/2007 on intercountry adoption, which is defined therein as a measure intended to protect minors by ensuring that any measures taken are in the best interests of the child.

53. Protection of the elderly is based on various legislative texts, including the Social Security Act, which established the foundation for the pension system, and the Health Act (No. 14/86), which established the health-care system. The Institute for the Elderly and Social Services, attached to the Ministry of Health and Social Policy, is responsible for setting up and operating the system for protecting dependents and developing policies and programmes for an ageing population. The Institute manages pensions and proposes legislation on issues affecting the elderly. The social protection provided to this sector of the community includes, in particular, non-contributory pensions that afford free medical and pharmaceutical assistance and complementary social services, in addition to financial benefits.

H. Human rights and efforts to combat terrorism

54. Spain has amply demonstrated its absolute commitment to human rights and fundamental freedoms in general, particularly in the context of efforts to combat terrorism. Terrorism is perceived by Spanish society as a constant threat because of its impact on the free exercise of the most fundamental basic rights and freedoms, and it calls for a firm and determined response. This perception is easily explained by the fact that more than a thousand people have been killed and thousands injured in terrorist attacks in Spain over the last 40 years, and by the fact that Spain suffered Europe's worst ever terrorist attack (on 11 March 2004 in Madrid, when 191 were killed and hundreds injured). This makes it all

the more important to emphasize how Spain has maintained a complete commitment to respect for human rights in spite of having suffered more than most democratic countries from the scourge of terrorism.

55. Terrorism in Spain is considered an offence under the Criminal Code and ordinary procedural law. Consequently, efforts to combat terrorism are made on the basis and within the framework of the law by the security forces and independent and impartial judges and magistrates, and through international cooperation. In Spain, human rights legislation has never been revoked, even partially or temporarily, the normal democratic framework has never been adversely affected, and the level of implementation of international human rights safeguards and standards has never been lowered, despite the existence of constitutional provisions that would have made it possible to do so, and not even after the tragic terrorist attacks of 11 March 2004 or at times of widespread popular alarm over the threat of terrorism.

56. Organization Act No. 6/2002 of 27 June, which replaced the 1978 Political Parties Act, established the political parties regime and aims to give effect to the provisions of article 6 of the Constitution defining political parties as basic instruments of political participation and requiring their structure and financing to be democratic. The constitutionality of the Act, which was confirmed by the Constitutional Court in judgement No. 48/2003 of 12 March, was endorsed by the European Court of Human Rights in its judgement of 30 June 2009, in which the court considered that although dissolving a political organization is an extraordinary action, it is fully justified in the defence of democracy since the activities of a party should not endanger democracy itself. In accordance with the Act, the Supreme Court, in its judgement of 27 March 2003, endorsed by the European Court of Human Rights, declared illegal and ordered the dissolution of the Herri Batasuna, Euskal Herritarrok and Batasuna parties, which were carrying out terrorist support and assistance activities.

I. Protection against torture and enforced disappearance

57. The system of protection against torture in Spain is especially strong. According to the Spanish Constitution (art. 10.2), fundamental rights and public liberties are to be construed in conformity with the Universal Declaration of Human Rights. Article 15 provides for an absolute ban on torture and other forms of inhuman or degrading treatment. One of the priorities of the Human Rights Plan is to maintain and guarantee the full applicability of these precepts.

58. As established by article 96 of the Constitution, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment forms part of the Spanish domestic legal order, while other international treaties and agreements on the subject, such as the European Convention on Human Rights and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, are also applicable in Spain.

59. It should also be noted that, in 2006, Spain ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted in New York on 18 December 2002. The entry into force of the Optional Protocol requires the establishment of both national and international bodies to monitor the implementation of the commitments contained therein. This will provide Spain with additional safeguards for the prevention of torture and ill-treatment. A national mechanism for the prevention of torture has been created, with the Ombudsman being appointed to act in that capacity, in accordance with Organization Act No. 3/1981, as amended by the Organization Act supplementing the Reform of the Judiciary Act (Organization Act No. 1/2009 of 3 November).

60. Between 2002 and 2009, over 250 police officers and prison guards were convicted of offences, clearly demonstrating Spanish judges' willingness to punish any abuses. Furthermore, in the context of the Human Rights Plan, the Ministry of the Interior is developing an application for the compilation of current data on cases that may have involved violation or infringement of the rights of prisoners in police custody.

61. The existence in the Spanish legal system of an *incommunicado* detention regime warrants a detailed explanation. It should be borne in mind that in cases involving armed gangs and terrorist organizations, investigations into the offences require more complex police and judicial investigations that may have international ramifications. The Constitutional Court, the highest judicial body responsible for guaranteeing fundamental rights in Spain, has ruled that the Spanish *incommunicado* detention system meets the requirements of the international conventions signed by Spain, precisely because of the strict safeguards provided by Spanish legislation in this area. According to Constitutional Court judgement No. 196/87 of 11 December, "the decision to place a detainee in *incommunicado* detention, when made under the conditions set out by law, indirectly protects the values guaranteed by the Spanish Constitution and enables the State to discharge its constitutional duty to provide security to its citizens, thereby increasing their trust in the functional capabilities of State institutions". This statutory regime is firmly grounded in constitutional rights since it always requires judicial authorization in the form of a reasoned court order issued within the first 24 hours of detention, as well as continuous direct monitoring of the personal situation of the detainee by the judge who issued the order to impose *incommunicado* detention, or by the investigating judge in the jurisdiction in which the detainee is incarcerated.

62. The Historical Memory Act (No. 52/2007 of 26 December) acknowledges and broadens rights, and establishes measures, for those who suffered persecution or violence during the civil war and the period of dictatorship, including the right to obtain a declaration of redress and personal acknowledgement as a form of redress for the victims of the Franco regime (including victims of torture). The Act thus acknowledges (art. 1) the right of persons who suffered persecution or violence during the civil war and the period of dictatorship to obtain moral redress and to recover their personal and family memory. This right is reflected in article 2 of the Act, in which all convictions, punishments and all forms of personal violence perpetrated for political, ideological or religious reasons during the civil war, as well as those that occurred for the same reasons during the dictatorship, are acknowledged and declared to be fundamentally unjust. This generic declaration is supplemented, as indicated in the explanatory introduction to the Act, by a specific procedure for obtaining a personal statement for the purposes of rehabilitation and redress, as provided for in article 4 of the Act. This procedure constitutes a right that is available to all victims and can be exercised by the victims themselves or by their family members or the institutions in which they had relevant responsibilities or activities. The Act joins almost 80 other acts and regulations in the same area that have been adopted since the advent of democracy in Spain.

63. Spain has ratified the International Convention for the Protection of All Persons from Enforced Disappearance, which constitutes a fundamental advance in efforts to combat enforced disappearances and to protect the victims of this practice, as well as the members of their families. It is notable that Spain was one of the first States to ratify this Convention.

64. Regarding the situation of the prison population, the Spanish Government has devoted extraordinary efforts to renovating and expanding prison facilities. On 2 December 2005 the Council of Ministers agreed to update and review the prison facilities plan, a process scheduled for completion in 2012 and involving the construction of 18,000 new cells of different types in 46 new centres, with a budget of €1,647 million. The models

under consideration for such centres combine the retributive aspect of sentences with the general preventive function thereof under the best possible conditions to ensure effective social rehabilitation of prisoners, which is the aim of prison sentences under the Spanish Constitution.

J. Economic, social and cultural rights

65. Spain was one of the first countries to ratify the International Covenant on Economic, Social and Cultural Rights (27 April 1977); this is clear evidence of Spain's commitment to the area of human rights.

66. As stated in article 1.1 of the Spanish Constitution, "Spain is hereby established as a social and democratic State, subject to the rule of law, which advocates freedom, justice, equality and political pluralism as the highest values of its legal system." This social State provides individuals with a wide range of economic, social and cultural rights, and the authorities are correspondingly responsible for guaranteeing those rights.

67. In this context, Spain makes great efforts to maintain the highest standards of social security benefits such as medical insurance, unemployment insurance, and disability and retirement pensions. Sustained and growing budgetary efforts have also been made to provide other benefits such as student scholarships, child benefits and housing subsidies. It should also be noted that Spain's public health and education systems are universal, free and of a high standard.

68. **Right to housing:** Housing policy is one of the Government's priorities. Royal Decree No. 553/2004 of 17 April created the Ministry of Housing, which is responsible for discharging the duties of the General State Administration in the area of housing and land, as defined in article 149.1 of the Spanish Constitution of 1978. The Ministry is responsible for proposing and carrying out Government policy in the area of access to housing, whether through ownership or rental; construction; urban planning; land use and architecture; and also for planning and scheduling the related investment. Active housing policies are comprehensive and efforts are being made to promote access by all individuals to adequate housing in a socially cohesive, more economically efficient and more environmentally friendly urban environment.⁹

69. **Right to education:** The right to education is governed by the Education Act (No. 2/2006), which ensures the consistency of the system across the autonomous communities to which responsibility for education is devolved. Schooling is currently compulsory up to age 16. To promote the enrolment of children from all families, "Educa" plans (the current plan is "Educa3") have been developed in an attempt to help families combine education with employment commitments and to respond to the growing demand for school places for children under the age of 3. In the latest *Education for All Global Monitoring Report* by the United Nations Educational, Scientific and Cultural Organization (UNESCO), Spain ranks third for school enrolment and sixth for survival rate to grade 5, with an Education For All Development Index (EDI) in which Spain is in seventeenth place (tied with the countries ranked fourteenth, fifteenth and sixteenth).

70. **Cultural rights:** The Spanish Constitution provides ample guarantees for cultural rights both at the regional level, where there are distinctive cultural communities, and in terms of access to culture in general. These principles have been supplemented by numerous laws governing areas such as the accessibility of reading materials (Act No. 10/2007) or the promotion of access to culture by persons with disabilities (Act No. 55/2007). This system has also been highly decentralized, which is why there are various support agreements and plans between the central Government and the autonomous

communities (conference on the cultural sector, museum support agreements, agreements on organizing art festivals, etc.).

71. **Right to work:** The right to work is also found in the Spanish Constitution and is the subject of special attention from the State, particularly in two areas:

- In the area of work, Organization Act No. 3/2007 of 22 March, on effective equality between men and women, establishes a range of rights and obligations that aim to achieve equality and a balance between personal, family and working lives, and that cover concepts such as corporate social responsibility
- In the area of employment promotion, various programmes support female employment (“Virtual School for Equality”, the female entrepreneur programme Soyempresaria.com), the employment of persons with disabilities (global strategy, plan of action, etc.), and employment in general (employment promotion programme, agreement on vocational training for employment, school workshops and training for a trade, etc.)

72. **Right to food:** Spain fully recognizes the right to food, which is covered by the right to health in the Constitution. Although there are no food shortages in Spain, the right to food is one of the principles underlying Spain’s aid activities, including the third master plan for Spanish cooperation, which recognizes that Spain must contribute to food and nutritional security at a global level.

K. Persons with disabilities, and dependent persons

73. Action by the authorities to assist persons with disabilities and dependent persons has focused on two fundamental goals, namely greater inclusion of persons with disabilities in the workforce and the creation of a universal social services system for all dependent persons, taking into account their degree of dependence.

74. As far as persons with disabilities are concerned, and in light of the obligations stemming from the Convention on the Rights of Persons with Disabilities and the pre-existing goals that Spain had set in its policies on persons with disabilities, Act No. 51/2003 of 2 December, on equal opportunity, non-discrimination and universal accessibility for persons with disabilities, aims to “establish measures to guarantee and give effect to the right to equality of opportunity for disabled persons, according to articles 9.2, 10, 14 and 49 of the Spanish Constitution”.¹⁰

75. Act No. 43/2006 included persons with disabilities in the general employment promotion programme. Subsidies for the long-term and temporary recruitment of such persons were governed by different regulations; the Act brought together those concerning regular employment, sheltered employment and temporary contracts intended to promote the recruitment of persons with disabilities. In implementing Act No. 43/2006, the Government, working together with employers’ and trade union organizations, associations representing persons with disabilities and the autonomous communities, developed a general strategy for the employment of persons with disabilities, and this was adopted by the Council of Ministers on 26 September 2008. The strategy is scheduled to last until 2012 and comprises 93 components grouped under 7 operational goals and 2 overall goals, namely, increasing the number of persons with disabilities in the workforce and enhancing the quality of their employment. The inclusion of persons with disabilities in the workforce is governed by Royal Decree No. 870/2007 on the regulation of assisted employment.

76. On 10 July 2009 the Council of Ministers adopted the third plan of action for persons with disabilities, intended to promote autonomy so that persons with disabilities can benefit from all equal opportunity policies. The plan acknowledges disability as a

component of human diversity and thus aims to promote cohesiveness in a complex society. As a governmental strategy, it is binding on the Government and acts as a set of guidelines for the policies of the autonomous communities and NGOs. The plan is supplemented by the plan of action for women with disabilities (2005–2008) and the first national accessibility plan (2004–2012).

77. In the area of dependence, it should be noted that in the last two years the basis has been laid for a national dependence scheme, which is viewed as the fourth pillar of the Spanish welfare State and which is currently being implemented. Act No. 39/2006 of 14 December, on the promotion of personal autonomy and care of dependent persons, acknowledges the rights of dependent persons as citizens' rights, and defines a system of social services provided by the public authorities. The latest statistical data show the current state of implementation of the Act: over 1 million people have applied for recognition as dependent persons, and by 1 July 2009 over 85 per cent of the applications had been assessed and 442,682 benefits validated.

V. Priorities in the area of human rights at the international level

78. Spain will stand as a candidate for the Human Rights Council in May 2010. As part of its campaign, Spain has been advocating a strengthening of the current Human Rights Council mechanisms, particularly the universal periodic review, as well as the special procedures, while making them less political, more civic-oriented and closer to the needs of individuals. It is also seeking a more effective multilateralism that would consolidate the Council and where possible enhance its functioning. In 2011, Spain will contribute to a constructive review of the Human Rights Council.

79. Spain has resolved to support any initiative to abolish the death penalty. Consequently, at the beginning of the sixty-third session of the General Assembly, the Prime Minister reiterated Spain's commitment to the abolition of capital punishment and its wish that 2015 should be the year when a universal moratorium on the death penalty is declared. Spain is also making efforts in this area within the European Union and consequently voted in favour of General Assembly resolutions 62/149 of December 2007 and 63/168 of December 2008, which were sponsored by the European Union. These resolutions condemned capital punishment and called for the establishment of a United Nations moratorium. It was also one of Spain's priorities, during its chairmanship of the Committee of Ministers of the Council of Europe, from November 2008 until May 2009, to convert the moratorium into a permanent abolition of the death penalty and encourage other international organizations to follow suit. Spain has announced the creation of an international commission for the universal abolition of the death penalty.

80. It is vitally important to fight for women's rights in all areas, but especially in areas such as health and education. In this connection, Spain supports numerous cooperation programmes in Ibero-America, Africa and Asia. It is also important to integrate women into the labour market under the same conditions, and with the same labour and social rights, as men. Efforts to combat gender-based violence are a key part of efforts to combat discrimination against women. Spain has much to contribute in this area given the resolute measures it has adopted in recent years. Although these measures have not eliminated the problem entirely, they have made a decisive contribution to ensuring much greater awareness of it in Spanish society, which is a prerequisite for eradicating the problem completely.

81. The implementation of the Convention on the Rights of Persons with Disabilities and its Optional Protocol must be supported. Spain has been exemplary in many ways in

the area of the social integration of persons with disabilities, thanks to the admirable work started many years ago by organizations such as the Spanish National Organization for the Blind (ONCE). This sterling work is ongoing and has been supported through the legislative and budgetary measures adopted by successive Governments through the State Secretariat for Social Policy, currently integrated in the form of a general secretariat in the Ministry of Health and Social Policy.

82. It is important to promote universal implementation of the various international treaties and agreements on combating torture, such as the European Convention on Human Rights, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Optional Protocol thereto. All these instruments have already been ratified by Spain. Spain's commitment to combating torture is reflected, as already mentioned in paragraph 59 of the present report, in the recent adoption (on 3 November 2009) of a national mechanism for the prevention of torture, and the implementation of the various measures contained in the Human Rights Plan, including the increasingly widespread use of the system for video recording persons held in incommunicado detention from the moment they are brought into the police station until they are heard by a judge.

83. For the Spanish Government, the protection of the rights of the child is a key goal of both its domestic and foreign policies, as reflected in the Human Rights Plan and promoted in bilateral talks on human rights. As a State party to the Convention on the Rights of the Child and the optional protocols thereto (on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict), Spain has submitted the relevant periodic reports and welcomes the recommendations related to them.

84. In accordance with the international community's commitments to fully attaining the Millennium Development Goals, and particularly the goal of halving, by 2015, the proportion of the population without sustainable access to safe drinking water and basic sanitation, as established in Goal 7, Spain has launched (together with Germany) an initiative within the framework of the United Nations on human rights obligations relating to access to safe drinking water and basic sanitation. The main goal of this initiative is to achieve recognition of the human right to water, i.e. access to safe drinking water and sanitation. Spain strongly supports the independent expert's mandate to achieve this goal as quickly as possible.¹¹

VI. Conclusion

85. **Spain maintains a high level of commitment to and respect for human rights. The changes that occurred in the area of civil and political rights at the end of the 1970s with the transition from a dictatorship to the current democracy were particularly remarkable, but recent years have seen a marked entrenchment of economic, social and cultural rights. In this regard, it should be recalled that the adoption of the Dependence Act which, in spite of the budgetary restrictions of the past year, continues to consolidate the support given to dependent persons as a new pillar of the welfare State, alongside health care (universal coverage in Spain), education and housing (unstinting efforts by the Government to make housing accessible to as many people as possible, through a dedicated Ministry of Housing).**

86. **Human rights have become an absolute priority of Spain's foreign policy, as demonstrated by national initiatives that are universal in scope, such as the initiative against the death penalty launched by the Office of the Prime Minister. The initiative seeks the immediate abolition of the death penalty for minors and persons with**

disabilities, and a moratorium covering all cases by 2015. The current Spanish Presidency of the European Union is determinedly promoting human rights policies in the European Union, and Spain is also acting through the United Nations with initiatives such as the one seeking recognition of the right to access to safe drinking water and sanitation as a basic and fundamental human right.

87. Finally, Spain wishes to emphasize the importance of the universal periodic review mechanism as a fundamental mechanism for monitoring observance of human rights by all States Members of the United Nations. Spain has demonstrated its respect for human rights through the painstaking process of preparing the present report, a process which began one year ago and involved numerous departments, the Office of the Ombudsman and civil society organizations. Spain is grateful for this opportunity to make all other States cognizant of the current human rights situation in Spain and the progress made over the last three decades, in spite of the attacks on Spanish democracy and the rule of law in Spain by indiscriminate acts of terrorism that deny the first and most fundamental human right, namely the right to life. Spain encourages the Human Rights Council to continue with the universal review mechanism and to improve it in those areas where States consider, by consensus, that there is room for improvement. A good opportunity to do this will come next year when the functioning of the Council is reviewed.

Notes

¹ El Plan propone dos *ejes prioritarios*:

- *Igualdad*, no discriminación e integración de las personas: igualdad de oportunidades, derechos de las mujeres, lucha contra la discriminación por razones de orientación sexual, integración de personas migrantes, integración de las personas pertenecientes a minorías étnicas, religiosas, lingüísticas y culturales
- *Garantías* de protección de los derechos humanos: el Gobierno concibe el Plan de Derechos Humanos como un mecanismo más para su garantía, pues a lo largo del texto se establece una lista de 172 compromisos concretos

² En este último ámbito destacan los siguientes acuerdos:

- Convenio para la Prevención y Sanción del Delito de Genocidio (1948)
- Convenio sobre los Derechos Políticos de la Mujer (1953)
- Pacto Internacional de Derechos Civiles y Políticos (1966) y sus Protocolos Facultativos (1966 y 1989)
- Pacto Internacional de Derechos Económicos, Sociales y Culturales (1966). Además, ha firmado el Protocolo Facultativo al Pacto Internacional de Derechos Económicos, Sociales y Culturales (2008), cuya ratificación está en trámite
- Convención sobre la Eliminación de Todas las Formas de Discriminación contra la Mujer (1979) y su Protocolo Facultativo (1999)
- Convención sobre los Derechos del Niño (1989) y sus dos Protocolos Facultativos de 2000 (sobre venta de niños, prostitución infantil y utilización de niños en la pornografía; y sobre participación de niños en conflictos armados)
- Convención Internacional sobre la Eliminación de Todas las Formas de Discriminación Racial (1966)
- Convención contra la Tortura y Otros Tratos o Penas Cruelles, Inhumanos o Degradantes (1984) (España ha efectuado la declaración prevista en su artículo 22, por la que se reconoce la competencia del Comité contra la Tortura para examinar las denuncias de violaciones de la Convención enviadas a título individual) y su Protocolo Facultativo (2002)
- Convención sobre el Estatuto de los Refugiados (1951) y su Protocolo (1967)
- Convención sobre el Estatuto de los Apátridas (1954)

- Estatuto de Roma de la Corte Penal Internacional (1998) y Acuerdo sobre Privilegios e Inmidades de la Corte Penal Internacional (2002)
 - Convención contra la delincuencia organizada transnacional, (2000) y los Protocolos para prevenir, reprimir y sancionar la trata de personas, especialmente mujeres y niños y contra el tráfico de migrantes por tierra, mar y aire
 - Convención Internacional de NNUU sobre los Derechos de las personas con discapacidad, ratificada por España el 3 de diciembre de 2007 y que entró en vigor en mayo de 2008 y su protocolo facultativo
 - Convención Internacional para la Protección de todas las Personas contra las Desapariciones Forzadas (2006)
 - Convención sobre Municiones en Racimo, ratificada por España en Junio 2009
- ³ En concreto, los más recientes han sido: 3º y 4º informes al CRC (enero 2008); 5º Informe al CDH (febrero 2008); 5º informe al CAT (febrero 2008); 6º Informe al CEDAW (abril 2008); 18º, 19º y 20º informes al CERD (enero 2009); 5º informe al CDESCR (junio 2009). Más aún, España ha recibido a diversos Relatores Especiales (R.E.) de Naciones Unidas sobre Derechos Humanos: R.E. sobre Derechos de los Migrantes (Dña. Gabriela Rodríguez) en septiembre de 2003; R.E. contra la Tortura (D. Theo van Boven) en octubre de 2003; R.E. para el Derecho a la Vivienda (D. Miloon Kothari) en noviembre de 2007; R.E. sobre la Promoción de los Derechos Humanos y las Libertades Fundamentales en la Lucha contra el Terrorismo (D. Martin Scheinin) en mayo de 2008.
- ⁴ Conscientes de la importancia del ámbito local para los procesos de integración de inmigrantes, se está apoyando la realización de proyectos innovadores por parte de las entidades locales (Ayuntamientos, Mancomunidades y Comarcas). Los programas subvencionados están encaminados a favorecer la inclusión social de las personas extranjeras, actuar en barrios con alta presencia de población inmigrante para evitar conflictos de índole intercultural, desarrollar actuaciones de sensibilización hacia la población autóctona, promover la participación social de las personas extranjeras y apoyar los procesos de reagrupación familiar. Anualmente se subvencionan aproximadamente 200 programas en unos 130 municipios.
- ⁵ La Dirección General de Integración de los Inmigrantes ha resultado adjudicataria de un programa europeo en materia de sensibilización a través del cual se ha elaborado una “Guía para el diseño y la elaboración de planes locales de sensibilización”, de la que se van a distribuir 4.000 ejemplares en castellano, con un CD en el que se encuentra traducida al inglés, catalán, gallego y euskera. También hay que mencionar el programa “Living Together”, “Viviendo juntos: Ciudadanía Europea contra el Racismo y la Xenofobia” cuyo objetivo general es colaborar en la promoción de un discurso europeo de tolerancia, basado en la generación de argumentos de convivencia y respeto, reconocimiento de la diferencia y construcción de una ciudadanía europea alejada de cualquier forma de racismo y xenofobia. Se ha realizado un trabajo transnacional con grupos de discusión. y se han identificado y elaborado propuestas de argumentos comunes de convivencia y respeto, reconocimiento de la diferencia y construcción de una ciudadanía europea.
- ⁶ El mencionado Programa, actualmente adscrito al Ministerio de Sanidad y Política Social, persigue mejorar la calidad de vida de los gitanos, lograr una mayor participación en la vida pública y social propiciando una mejor convivencia intercultural, al mismo tiempo que se lucha contra las actitudes y manifestaciones discriminatorias y/o racistas hacia esta población. La función principal del Programa es la promoción y financiación de programas compensatorios con medidas positivas para el desarrollo social de las comunidades gitanas, impulsando la coordinación de las actuaciones de las distintas administraciones públicas y de éstas con las organizaciones representativas del colectivo gitano.
- ⁷ Los objetivos principales del plan serán los siguientes:
- Diseñar las estrategias en los que han de basarse las políticas dirigidas a la comunidad gitana, basadas en los principios de igualdad de trato y no discriminación
 - Determinar y coordinar los ámbitos de intervención, a fin de que puedan ejercer sus derechos al acceso de bienes y servicios
 - Contribuir a impulsar la política europea a favor de la población gitana y participar en el desarrollo de la misma
- ⁸ Se articula a través de cinco áreas de actuación:• Sensibilización, prevención e investigación (elaboración de códigos de buenas prácticas para la investigación, de estudios e investigaciones,

mejora de la atención a las víctimas, campañas de información, cursos y seminarios, etc.):

- Educación y formación (programas de información y concienciación en los centros de enseñanza, conferencias y coloquios para padres y educadores, etc.)
- Asistencia y protección a las víctimas (guía para mejorar los servicios telefónicos de atención a las víctimas, asistencia jurídica especializada y en su propio idioma a las víctimas, simplificación de los procedimientos para la concesión de permisos de trabajo y de residencia y potenciación de la colaboración con los países de origen, etc.)
- Medidas legislativas y procedimentales (mejora y sistematización de los procedimientos de actuación policial, proporcionar a la víctima una atención inmediata y adecuada, mejora de la detección de situaciones de trata de seres humanos, etc.)
- Coordinación y cooperación (potenciar la coordinación policial en el ámbito nacional e internacional, incrementar la colaboración con las ONG que presten apoyo y servicios a las víctimas, etc.)

⁹ En tales sentidos, la normativa más reciente y relevante es la que se relaciona a continuación:

- Real Decreto Legislativo 2/2008, de 20 de junio, por el que se aprueba el texto refundido de la Ley de suelo. Esta ley tiene por objeto regular las condiciones básicas que garantizan la igualdad en el ejercicio de los derechos y en el cumplimiento de los deberes constitucionales relacionados con el suelo en todo el territorio español.
- Real Decreto 2066/2008, de 12 de diciembre, por el que se regula el Plan Estatal de Vivienda y Rehabilitación 2009-2012. El principal objetivo de este Plan es garantizar la libertad de elegir el modelo de acceso a la vivienda que mejor se adapte a las necesidades, circunstancias, preferencias, o capacidad económica de los demandantes de vivienda.
- Decretos de las Comunidades Autónomas que, por una parte, implementan en sus respectivos ámbitos territoriales el citado Plan Estatal; y, por otra, aprueban sus propios planes autonómicos.
- Real Decreto 1472/2007, de 2 de noviembre, por el que se regula la Renta Básica de Emancipación de los Jóvenes, que contiene un conjunto de ayudas directas del Estado como apoyo económico para el pago del alquiler de la vivienda que constituye el domicilio habitual y permanente de dicho sector de ciudadanos.

¹⁰ Como desarrollos más importantes de esta Ley se pueden mencionar los siguientes:

- La constitución del Consejo Nacional de Discapacidad (Real Decreto 1865/2004 de 6 de septiembre, publicado en el BOE 7/9/2006), como órgano colegiado interministerial, de carácter consultivo.
- La creación de la Oficina Permanente Especializada del Consejo Nacional de Discapacidad, con carácter técnico especializado, donde se puede denunciar cualquier situación de discriminación. (Orden Ministerial del TAS/736/2005 de 17 de marzo, publicada en el BOE 26 de marzo de 2005).
- La legislación es sumamente amplia, ya que tanto los Reales Decretos 366/2007, 505/2007, 1544/2007 y 1417/2006 como las Leyes 43/2006, 27/2007, 49/2007 establecen el marco jurídico favorable para las personas con discapacidad.
- Fomento de la inclusión de la perspectiva de discapacidad y género, con carácter transversal, en las iniciativas legislativas, planes y programas dirigidos a la población en general., así como seguimiento de la aplicación en la normativa española de este principio recogido en las obligaciones de la Convención de NNUU citada.

¹¹ Por lo que atañe a la dimensión comunitaria (Unión Europea) es importante señalar las importantes novedades que, en el ámbito de los derechos fundamentales, aporta la reciente aprobación del Tratado de Lisboa, concretamente sus artículos 1 bis, 2, 6, 10 A y 188 N. Especial mención merece su artículo 6.2, que establece que la Unión se adherirá al Convenio Europeo para la Protección de los Derechos Humanos y de las Libertades Fundamentales. Así mismo, el nuevo Tratado concede a la Carta de los Derechos Fundamentales de la Unión Europea rango de Derecho primario, pasando sus disposiciones a ser jurídicamente vinculantes. Constituye una de las prioridades de la Presidencia española del Consejo de la UE en el primer semestre de 2010 precisamente el inicio e impulso del procedimiento

para la adhesión de la Unión a este Convenio. España muestra de esta forma nuevamente su firme compromiso con la protección de los derechos fundamentales de todos los ciudadanos.
