

DECLARATION OF THE HUMAN RIGHTS INSTITUTE OF CATALONIA

29th HRC Session. Geneva, June 2015

On behalf of the *Federación Española de Asociaciones por la Defensa y Protección de los Derechos Humanos* and other 8 civil society organizations, we would like to highlight to 3 following issues to be taken into consideration in the adoption of the UPR report on Spain

I. Effects on economic, social and cultural rights of the measures taken to fight the crisis

At the first Universal Periodic Review of Spain in 2010, the economical and financial crisis and the measures taken to control public deficit, *ie* social cuts, had just started to show its effects on human rights and there were not many recommendations on this topic. In these four years that have past, regressive policies on the protection of economical, social and cultural rights have sadly widespread and are one of our main concerns.

Although Spain has ratified the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights in September 2010, the protection of these rights has been diminished as pointed out by the last CESCR's Concluding Observations (E/C.12/1/Add.99). Specially regarding the right to health, right to food and right to housing.

II. Restraints on civil and political rights while protesting

The measures explained in the first part of this report, among others, have led to a social unrest that causes a high rate of social protests and demonstrations, with figures ranging between 90 and 100 protest actions daily in 2013. This reality of social unrest has been answered by the authorities with a wave of both legislative and executive repressive measures, which are producing a regression also on civil and political rights. Limits to freedom of expression, freedom of demonstration and even a growing criminalization of protest, are some of the most critical aspects that we would like to highlight.

The **Public Security Act** was adopted at the beginning of 2015 and will get into force in 7 days (except the disposition about hot renditions which was immediately into force. The concept of security and public order that handles the law is wide and revolves around security institutions and authorities instead of respecting and protecting the rights and freedoms of citizens.

According to the bill, the absence of prior notification of a concentration or meeting is considered an alteration of public security and it relates a high sanction. The law also sanctions, "disturbance of public safety occurring at meetings outside the headquarters of the Congress of Deputies, the Senate and the Legislative Assemblies of the autonomous communities, even if they are not at an official session." This is a disproportionate restriction on **the right of assembly**. As it is the case with the reform of the Penal Code, the Law on Public Safety includes new offenses created ad-hoc to criminalize peaceful rising social protest actions undertaken as a result of the restriction of the social rights explained above.

In the reform there are also sanctions that limit the exercise of the **freedom of expression**. It prohibited, for instance, the use of images or data of public authorities or police in the performance of their duties. This places a disproportionate and unnecessary restriction of the right to information and freedom of expression and it also favours impunity for police who overstep the boundaries of their duties. This has already been highlighted by up to five UN special procedures.

III. Migrants, asylum, racism and other connected issues

We urge Spain to ratify the International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families

The **Centres for Foreigners** (*Centros de Internamiento de Extranjeros*, CIE) remain one of the main concerns on fundamental rights of foreigners, both for public national human rights institutions and for civil society groups. Among the former, the Spanish Ombudsman and the Attorney General have included references in their annual reports to the poor conditions of these centres and the administrative and procedural difficulties of prisoners for exercising their rights.

Persons in an irregular administrative situation in Spain are considered to have committed an administrative offense but not a crime. However, their liberty can be deprived up to 60 days. In Spain there are 8 CIE with 2,572 beds. They are under the Ministry of Interior's competence and are managed by the National Police. Its sole purpose is to perform the relevant procedures to expel irregular immigrants. But many rights are at stake in these centres, not only liberty.

Apart from being contrary to human rights standards, we would like to point out that this immigration policy has proven to be ineffective. In 2013, 54% of inmates were released and only 46% was expelled, in Barcelona. The trend is similar in the rest of CIE.

It is imperative to draw attention also to the **situation in Ceuta and Melilla**. The policy of closing borders necessarily entails great suffering for thousands of people and inevitably, inescapably, the systematic violation of human rights. The sophistication of rejection systems (increasingly high fences, *concertinas* ...), theoretically designed to deter, do not achieve that goal and cause serious injuries or even death to the people trying desperately to cross them.

The Spanish government is performing, together with the Moroccan authorities, what is known as "*devoluciones en caliente*", hot renditions, fast and immediate expulsions of people who have jumped the fence, without proper guarantees and procedures, especially regarding potential asylum seekers.

The situation in Ceuta and Melilla is particularly serious for collective and summary expulsions, which are contrary to law, violate the right to asylum and international protection and it violates of the principle of non-refoulement. Ceuta and Melilla are becoming prison-cities or detention centres where people do not have freedom of movement.